

2015 HOUSE JUDICIARY

HB 1040

2015 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1040
1/13/2015
21925

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to scope of practice in involuntary commitment proceedings; and to provide a penalty.

Minutes:

Testimony #1

Chairman K.Koppelman: Opened the hearing on HB 1040 with testimony in support.

Jennifer Clark, Legal Counsel for Legislative Counsel: Neutral Testimony.

The interim committee looked at the Affordable Care Act, we also looked at our general health care delivery system in the state to see if there were things we could do to improve it. We have these advanced care registered who have gotten specific training and certification from the board of nursing and the way our law is written they are not allowed to practice to the extent of their authorized scope of practice. They can fill out some forms and testify at some steps in the process and not others and that we weren't using these individuals to their fullest extent. It is a pretty long bill. Every section in this bill relates to the commitment process on these proceedings. We have created a definition of Advanced Practice Registered Nurse. You have these nurses doing a variety of things. Here we have defined that in they have to be registered by the board of nursing and they need to be function within their scope of practice with one of the elements that State Board of Nursing recognizes. This chapter does not expand the scope of practice of those advanced practices registered nurses beyond the scope they are already granted by the state Board of Nursing. There is a lot of housekeeping in here. We define who an advanced practice registered nurse is and what we think they can do. Went through the bill. (3:53-4:50)

Chairman K.Koppelman: If you just want to do a quick over view of the balance of the bill. Does it allow the Advanced Practice Registered Nurses to do commitment? What are the requirements to be an Advanced Practice Registered Nurse?

Rep. P. Anderson: My healthcare is by a physician's assistant at Sanford. Was there any thought to put a physician's assistant on with a qualified nurse?

Jennifer Clark: I do not recall that being discussed. A physician's assistant needs to practice under the direction of a physician. An advanced practice registered nurse doesn't. You could incorporate them into this system.

Rep. L. Klemin: Line 14, page 1 what is the population foci?

Jennifer Clark: We try to have the language to the state board of nursing uses for their certification for their advanced practice registered nurses so we are using the same language in both. They have done it in administrative rule so they have identified certain populations that you are limited in practicing in. It is just housekeeping in the bill.

Testimony in support:

Constance Kalanek, Executive Director of the Board of Nursing: We worked with the healthcare reform committee on this legislation over the interim and spent many hours looking through the aspect of this particular bill. With the independent practice of that particular nurse; they are educated at the masters and doctoral level in addition to the fact they must be certified and have the education in that particular area. I want to assure you that someone who is not qualified to do this work is not allowed to do this particular task. This bill particularly in our rural areas will be helpful to the advanced practice nurse. The nurse practitioner association worked very closely with the healthcare reform review committee to get this bill together and she could give more written testimony if you desire.

Rep. L. Klemin: That term population foci? Could you just explain that?

Constance Kalanek: It means the area in which the individual is qualified to practice. It is part of a nationwide model and ND is in 100% compliance with the Apparent Consistence Model and we are looking forward to other states also licensing and regulating their advanced practice nurses in the same way we do. There are currently only seven states that meet all of those requirements.

Rep. L. Klemin: In the civil commitment statues we are talking about people who maybe a serious risk of harm to themselves or others because of several different things like health problems or drug addiction or alcohol addiction or something like that so in the certification by the board then if they are certified in mental health are they also certified in drug addiction or is it more specific than that?

Constance Kalanek: It is more specific individuals with their scopes of practice limit to what they are qualified to do. The board limits that as well. Whether it be a medical doctor or a clinical nurse specialist who specializes in psychologist, that doesn't make them a specialist in all areas. The certification is a national certification based on the requirements of that particular area of practice.

Rep. G. Paur: On page 2, 11 c you struck out a registered nurse with a master's degree in psychiatric and mental health and replaced it with an advanced practice nurse. An advanced practice nurse doesn't have to have a master's degree in psychiatric or mental health?

Constance Kalanek: That is a cleanup. If you go back to the actual definition of advanced practice registered nurse in #1 that is the requirement for them. The master's degree indicates the area in which individuals have general things taken throughout the degree requirements and then they specialize in that particular area. I think it just cleans it up and makes it more specific. They have to have a master's degree at either a nurse practitioner or a clinical nurse specialist and they must have the requirements that allow them to set for a certification exam that will qualify them to practice in the arena.

Chairman K.Koppelman: Where is that requirement found?

Constance Kalanek: In the administrative rule.

Andy McLean, Medical Director of the ND Department of Human Services: Neutral
One of the amendments you might consider also is adding the physician's assistant that is certified in psychiatry under the supervision of a psychologist as a mental health professional. A mental health professional is allowed to screen, be involved in the petition in someone who might be a person requiring treatment. An expert is someone who has treated or has evaluated with essentially a higher scope of practice. At a minimum I think Rep. Anderson, you comment about physician assistants; I think in this chapter it is worth considering a physician's assistant with psychological or mental health certification under the supervision of a psychologist to be a mental health professional. You might wish to consider a parallel process with the advanced practice registered nurses for a Rep. P. Anderson for the same certification. They are then treating individuals within their clinics. They are responsible for their care. The previous people who testified are correct in that an AP is under the supervision of a psychologist or a physician. If an individual is committed one of the things that are asked is the expert record or the expert testimony of the last 45 days of treatment. If an advanced practice registered nurse or a PA is a primary provider they then would be allowed to give that testimony as expert. If they are not allowed to do that then they need to find another individual who doesn't know that case or care to interview the patient etc. so the primary care providers can be seen as expert and that can be beneficial to both the individual as well as the system.

Chairman K.Koppelman: Your recommendation is to add a physician's assistant with a psychological or mental health certification who is practicing under the supervision of a psychologist. My question is there still a reason to have the physician be the one that actually does the commitment?

Andy McLean: In our current system within the Dept. of Human Services and we only have one physician's assistant who has psychiatrist certification.

Chairman K.Koppelman: Do you know if the Healthcare Reform Review Committee entertains that idea at all?

Andy McLean: I don't know that at all.

Rep. L. Klemin: Was your proposal presented to the interim committee during that interim?

Andy McLean: I was not involved in that specific interim discussion, but we did discuss the roll of the physician's assistants and particularly following along caring for patients and whether or not their care would be seen as expert. We were thinking it would be seen as expert.

Rep. L. Klemin: Do you know why the committee did not include that language in here to start with?

Andy McLean: I don't know that.

Rep. K. Wallman: Is there a scope of practice?

Andy McLean: There actually is specific national certification for psychologist scope practice within the physician's assistance. It is thousands of hours and that is why I am mentioning specific certification under the supervision of a psychologist.

Chairman K.Koppelman: Commitment involves a legal aspect which is the loss of your rights and freedom. Who really should be doing this?

Andy McLean: Within the experts there are different tiers or levels that I would be concerned about.

Rep. L. Klemin: What is the roll of the mental health care physician?

Andy McLean: We have a master's level social worker who is working with an individual and sees someone who maybe a person requiring treatment. They could petition the court as a mental health professional or they could be involved in the screening process in determining whether or not the person is a person who requires treatment. Many of them do not have the number of hours or education of an expert but they have the ability within the system to do the evaluation or petition or part of the early assessment.

Duane Hodak, Secretary of the ND Board of Medical Examiners: We license physicians and physician assistants and set their standards. -Neutral testimony- Our point is if you are going to extend this to advanced practice registered nurses there doesn't appear any reason within our licensing and our certification that you don't do it at parity with advanced practice registered nurses. There is a national certification for physician assistants that requires among testing and education 2000 hours practice in the field. They must practice within the scope of the supervising physician. So it is impossible for a PA to be working in psychiatry and so you have what you tried to covered in this bill in other ways already existing in our practice. The supervision can be simply access to that supervising physician when it is needed and we think that is a plus and that is how it operates in hospitals now. If your point is to extend this then you might as well do it. From our experience we take complaints and discipline in both physician assistants and we get much less complaints in that area than we do with physicians. We do not have a concern.

Rep. L. Klemin: Why are we having this extended? Are we looking at options for people who might be able to do the same thing in this area of involuntary commitments?

Duane Hodak: That is my assumption. We have a known shortage of mental health professionals and this is an extender.

Rep. P. Anderson: Mental health issues are usually because the person is a danger to themselves and we need to get them quickly into some sort of facility. Is that true?

Duane Hodak: I am a lawyer but from the legal prospective I think that is true and that is the body of statutes that exists when we need immediate action.

Rep. K. Wallman: Do you know if our pier states are including PA and advanced nurse practitioners in the scope of folks who can do this?

Duane Hodak: I don't know.

Chairman K.Koppelman: If we do extend the authority to commit to advanced practiced registered nurses we also extend it to the physician's assistant with the definition that Dr. McLean gave. Would you expect the scenario might change a bit depending on the circumstance?

Duane Hodak: When we look at a case involving a physician's assistant we also include the physician and they know that ultimately they have the responsibility.

Rep. L. Klemin: Would it be possible for you and Dr. McLean to get together and give us that specific language and where it should be included in this bill so we get it right?

Duane Hodak: I am sure we can do that.

Katie Fitzsimmon, ND Medical Association: We are in support of this bill. In expanding this to advanced practice registered nurses and possible P A's if there would be an amendment. The physicians and psychologist that we work through the ND Psychologist Society are interested in pushing this forward as well as many of these commitment hears require the psychologist to leave their practice and go to a commitment hearing. They think the practicing nurse is the one that did the first interview with that patient and they might have a little bit more knowledge on it so they would be capable of testifying and working with that commitment hearing and the psychologist could be going back to work with their long list of patients.

Chairman K.Koppelman: Do you support the inclusion of the physician's assistant?

Katie Fitzsimmon: We would need to see the amendment. I think as long as things were written out within the statue, but we would need to see the amendment. We were part of the interim study and we knew about it.

Chairman K.Koppelman: Who does the Medical Association represent?

Katie Fitzsimmon: We represent all the practicing physicians in the state.

Opposition:

Gregory Ian Ruge, Attorney: (See testimony #1) (44:16-46:40) On page 1 I don't believe that #1 advanced practice nurse should be there. It should be struck and if you are going to put it there put it under the medical health professional definitions which would then be c. Then put in the definition of what qualifications that this person has to have to practice mental health law. That should be in there. I am not opposed to having an advanced practice nurse. They still have to practice under a mental health physician.

Chairman K.Koppelman: I think you raise a good point. We will look in the administrative code. Should this be something defined by law rather than just by the Board of Nursing?

Gregory Ian Ruge: Not just a mental health professional can file these involuntary commitments. All you have to do is be age 18 and above and have a good faith belief that the person is mentally ill and chemically dependent and requiring treatment. Lately we have been getting psychologist at St. Alexis Medical Center doing these involuntary commitments and I hate that. They should be getting family members doing that because I think it is a conflict of interest.

Chairman K.Koppelman: Could you walk us through this.

Gregory Ian Ruge: What happens is this. In Bismarck-Mandan area what happens is maybe somebody comes to the emergency room and he is psychotic or whatever; he is taken from the emergency room on a 24 hour hold and sent to the psychotic unit wherein they do an evaluation. After that they determine whether the person is one who needs treatment; after that 9 out of 10 times they have a family member come in and do this. If they then go to the states attorney's office; they can then advise them on how to fill out a petition. The Supreme Court of ND has a stack of forms we use. Once they file the petition it goes to a District Judge who then makes a probable cause finding. Once he does that he sends the petition back to the court clerk and they call me and say we have an involuntary commitment. Sometimes under the petition itself they have two boxes; one for mentally ill and chemically dependent person or maybe both boxes and then we schedule a preliminary hearing. You only have to show probable cause that the person is one or the other. Probable cause has no rules of evidence or civil procedure; it is just a slam dunk. They then order the person up to 14 days of treatment. It could be in patient or outpatient treatment.

Chairman K.Koppelman: So there is a window from the time the person is charged and then committed.

Gregory Ian Ruge: It usually is four days; however it can be up to seven days if the person is out running around. There is a legal process that has to be done. After the 14 days they have a treatment hearing and then the rules of evidence and civil procedure apply and the standard of evidence moves to clear and convincing evidence. Then we call in the States Attorney and then he calls in the expert witness. My client has a right to have an independent evaluation if he wants. They can be ordered then up to 90 days of treatment.

Rep. K. Hawken: I have a constituent who has tried to get her son help and he is probably suffering from PTSD and there is nothing she can do to get him committed. I don't think it is as easy as you are saying it is.

Gregory Ian Ruge: Part of the problem maybe that the States Attorney is not doing their job properly or the mental health professionals don't believe he is a person mentally ill and requiring treatment. They have to show that they are mentally ill.

Rep. G. Paur: Would it be possible for Mr. Ian Ruge to draw up amendments on this?

Chairman K.Koppelman: Our intern will research this section.

Rep. L. Klemin: You think the definition of advanced practice registered nurse should be more specific than it is in this status. You do not have an objection to having these type of people as a mental health professional but you think their qualifications should be set out in the statute rather than in the rule.

Gregory Ian Ruge: That is absolutely right.

Hearing closed.

2015 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1040
2/4/2015
23259

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature



Minutes:

Proposed Amendment #1,2

Chairman K. Koppelman: Opened the meeting on this bill.

Rep. P. Anderson: This was the bill that had to do with involuntary commitments and who could give expert testimony. Everyone was in favor of the bill except an attorney and indicated he would like broader definition under the advanced practice registered nurse. Then Duane Houdek from the State Board of Medical Examiners prepared an amendment to add Physician Assistants. There did not seem to be any disagreement by any of the people that testified that these would be fine amendments. (Proposed amendment #1) There is also a definition of what a Physician's Ass't is from the State Board of Medical Examiners.

Chairman K. Koppelman: Discussed proposed amendment from Duane Houdek: (proposed amendment #2)

Rep. G. Paur: A Physician's Assistant would have to be under a doctor.

Chairman K. Koppelman: If you look at page 1, line 10 it has that language that I was looking for all these things.

Rep. L. Klemin: There appears to be a type o in this should be mental instead of metal.

Motion Made to Move the Amendment #1 by Rep. P. Anderson: Seconded by Rep. K. Wallman:

Rep. L. Klemin: The requirement now for an advanced practice registered nurse or not?

Chairman K. Koppelman: I believe it is. Our intern worked with Dr. Houdek who represents the board of nursing and helped to come up.

Voice vote carried.

Motion Made to amendment HB1040 by Rep. P. Anderson: Seconded by Rep. Lois Delmore:

Voice vote carried.

Do Pass As Amended by Rep. Lois Delmore: Seconded by Rep. P. Anderson:

Roll Call Vote: 13 Yes 0 No 0 Absent Carrier: Rep. P. Anderson:

HOUSE JUDICIARY COMMITTEE

HOUSE BILL NO. 1040

**Proposed Amendments provided by the
State Board of Medical Examiners**

Duane Houdek
701.328.6500
dhoudek@ndbomex.org

Page 2, line 8:

Insert "physician assistant," after "physician,"

Page 2, line 13:

Insert "physician assistant," after "physician,"

Page 3, line 3:

Insert "g. A physician assistant."

Page 4, line 1:

Insert "14. "Physician assistant" means an individual licensed to practice as a physician assistant under chapter 43-17, who is authorized by the state board of medical examiners to practice in the field of psychiatry, holds a certification in psychiatry approved by the board, and is practicing under the supervision of a psychiatrist licensed to practice medicine in North Dakota. This chapter does not expand the scope of practice of a physician assistant beyond the scope of practice authorized by the state board of medical examiners."

And renumber subsequent paragraphs accordingly.

Page 7, line 5:

Insert "physician assistant," after "physician,"

Page 7, line 29:

Insert "physician assistant," after "physician,"

Page 9, line 4:

Insert "physician assistant," after "physician,"

Page 9, line 6:

Insert "physician assistant," after "physician,"

Page 9, line 9:

Insert "physician assistant," after "physician,"

Page 11, line 6:

Insert "physician assistant," after "physician,"

Page 13, line 19:

Insert "physician assistant," after "psychiatrist,"

Page 14, line 19:

Insert "physician assistant," after "physician,"

Page 14, line 26:

Insert "physician assistant," after "psychiatrist,"

Page 15, line 1:

Insert "physician assistant," after "psychiatrist,"

Page 16, line 7:

Insert "physician assistant," after "physician,"

Page 16, line 11:

Insert "physician assistant," after "physician,"

Page 18, line 7:

Insert "physician assistant," after "physician,"

Page 18, line 11:

Insert "physician assistant," after "physician,"

Page 18, line 14:

Insert "physician assistant," after "physician,"

Page 18, line 24:

Insert "physician assistant," after "physician,"

Proposed Language for an Amendment to HB 1040

1. "Advanced practice registered nurse" means an individual who is licensed as an advanced practice registered nurse under chapter 43 - 12.1 within the role of certified nurse practitioner or certified clinical nurse specialist, ^{who has completed the requirements for a} minimum of a master's degree in psychiatric and mental health nursing from an accredited program, and who is functioning within the scope of practice in one of the population foci as approved by the state board of nursing. This chapter does not expand the scope of practice of an advanced practice registered nurse beyond the scope of practice established by the state board of nursing.

February 4, 2015

SK
2/5/15
12

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1040

Page 1, line 13, after the underscored comma insert "who has completed the requirements for a minimum of a master's degree in psychiatric and mental health nursing from an accredited program."

Page 2, line 8, after the first comma insert "physician assistant."

Page 2, line 12, after the first comma insert "physician assistant."

Page 3, after line 2, insert:

"g. A physician assistant."

Page 4, line 1, after "14." insert "Physician assistant" means an individual licensed to practice as a physician assistant under chapter 43-17, who is authorized by the state board of medical examiners to practice in the field of psychiatry, holds a certification in psychiatry approved by the board, and is practicing under the supervision of a psychiatrist licensed to practice medicine in this state. This chapter does not expand the scope of practice of a physician assistant beyond the scope of practice authorized by the state board of medical examiners."

15."

Page 4, line 3, replace "15." with "16."

Page 4, line 5, replace "16." with "17."

Page 4, line 7, replace "17." with "18."

Page 4, line 12, replace "18." with "19."

Page 4, line 14, replace "19." with "20."

Page 4, line 29, replace "20." with "21."

Page 5, line 1, replace "21." with "22."

Page 5, line 6, replace "22." with "23."

Page 7, line 5, after the second comma insert "physician assistant."

Page 7, line 29, after the first comma insert "physician assistant."

Page 9, line 4, after the first underscored comma insert "physician assistant."

Page 9, line 6, after the first comma insert "physician assistant."

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Page 11, line 6, after the first underscored comma insert "physician assistant."

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Page 14, line 26, after the second comma insert "physician assistant."

2/2

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Page 18, line 7, after the first comma insert "physician assistant."

Page 18, line 11, after the first comma insert "physician assistant."

Page 18, line 14, after the first comma insert "physician assistant."

Page 18, line 24, after the first comma insert "physician assistant."

Renumber accordingly

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL NO. HB 1040**

House JUDICIARY Committee

☐ Subcommittee

☐ Conference Committee

Amendment LC# or Description:

add "Physicians Assistant"
change "metal" to "mental" page 1 line 10

Recommendation:

☒ Adopt Amendment

☐ Do Pass

☐ Do Not Pass

☐ Without Committee Recommendation

☐ As Amended

☐ Rerefer to Appropriations

Other Actions:

☐ Reconsider

☐

Motion Made By Rep. P. Anderson: Seconded By Rep. K. Wallman:

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman			Rep. Pamela Anderson		
Vice Chairman Karls			Rep. Delmore		
Rep. Brabandt			Rep. K. Wallman		
Rep. Hawken					
Rep. Mary Johnson					
Rep. Klemin					
Rep. Kretschmar					
Rep. D. Larson					
Rep. Maragos					
Rep. Paur					

Total (Yes) _____ No _____

Absent _____

Floor Assignment: _____

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

Voice vote carried

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL NO. HB 1040**

House JUDICIARY Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: Requirement for an advanced practice registered nurse.

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. P. Anderson: Seconded By Rep. Lois Delmore:

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman			Rep. Pamela Anderson		
Vice Chairman Karls			Rep. Delmore		
Rep. Brabandt			Rep. K. Wallman		
Rep. Hawken					
Rep. Mary Johnson					
Rep. Klemin					
Rep. Kretschmar					
Rep. D. Larson					
Rep. Maragos					
Rep. Paur					

Total (Yes) _____ No _____

Absent _____

Floor Assignment: _____

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

Voice vote carried

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL NO. HB 1040**

House JUDICIARY Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: add Physician's Assistant add Advanced Practice Registered Nurse

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Lois Delmore:: Seconded By Rep. P. Anderson:

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman	x		Rep. Pamela Anderson	X	
Vice Chairman Karls	X		Rep. Delmore	X	
Rep. Brabandt	X		Rep. K. Wallman	X	
Rep. Hawken	X				
Rep. Mary Johnson	X				
Rep. Klemin	X				
Rep. Kretschmar	X				
Rep. D. Larson	X				
Rep. Maragos	X				
Rep. Paur	X				

Total (Yes) 13 No 0

Absent 0

Floor Assignment: Rep. P. Anderson:

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

REPORT OF STANDING COMMITTEE

HB 1040: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1040 was placed on the Sixth order on the calendar.

Page 1, line 13, after the underscored comma insert "who has completed the requirements for a minimum of a master's degree in psychiatric and mental health nursing from an accredited program."

Page 2, line 8, after the first comma insert "physician assistant."

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Page 18, line 24, after the first comma insert "physician assistant."

Renumber accordingly

2015 SENATE JUDICIARY

HB 1040

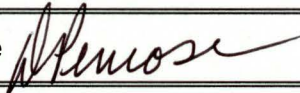
2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1040
3/16/2015
24921

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Minutes:

1,2,3

Chairman Hogue called the committee to order and opened the hearing on HB 1040. Jennifer Clark from Legislative Council was on hand to introduce the bill.

Jennifer Clark: Legislative Council. The bill that comes before you came out of the healthcare reform review committee. This is a scope of practice issue, we met in Fargo and heard from representatives from the behavioral health sector of healthcare delivery system and they said that we were not using our advance practice registered nurses to their full extent as it relates to our commitment law.

Jennifer Clark then went in and explained the bill and it's changes section by section.

Chairman Hogue: In section 8 you mentioned physician assistant or the advanced practice nurses are not in that section. Is that because only the physician will be the one prescribing the medication.

Jennifer Clark: My recollection was that the physician assistant and advanced practices nurses have prescriptive authority.

Senator Nelson: What is the difference between person and individual as it relates to the context of the bill?

Jennifer Clark: In this case person is defined as something other than a corporate entity.

Senator Grabinger: Are these being included into law for screening purposes or can they go as far as diagnosis?

Jennifer Clark: It is my understanding that as long as it is within their scope of practice we are letting them do what the doctors do and that includes diagnosis.

Senator Grabinger: In cases where they go to court are they considered professional witnesses?

Jennifer Clark: That is one of the reasons that they wanted to be added in here, they were able to do the prelim steps but not all of them.

Duane Houdek: North Dakota State Board of Medical Examiners. See attachment 1,2 (15:32-17:54)

Chairman Hogue: There was a ball potentially dropped in section 8, was that intentional?

Duane Houdek: I didn't attend any of the interim committee hearings so I am not able to comment.

Senator Nelson: If we adopt your amendment will it be a big hassle with the conference committee or will they approve it?

Duane Houdek: I have no reason to think it would cause and hassle.

There was no further testimony in support or opposition. Chairman Hogue then closed the hearing on HB 1040.

Attachment 3 is written testimony from Cheryl Rising, ND Nurse Practitioner Association, but she was not present at the meeting.

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1040
3/23/2015
25290

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Spencer

Minutes:

Ch. Hogue: Let's take a look at HB 1040. Explained the amendments. On page 10, lines 17-18. If you recall the hearing on this bill we were asking (#1) several witnesses whether it was an oversight to leave them out of this section which would permit physician assistant, or advanced practice registered nurse to provide a medication in this 48 hour hold period. No one seemed to know whether it was an oversight or not. I thought we should add it in because they do have prescriptive authority and in the west, where there aren't any behavioral health specialists. All of these commitments come east to Bismarck, Minot, Fargo, and Grand Forks. They won't do the commitments in, for example in Williston, because there aren't the professionals out there. They have to literally transport them to Minot, for example. When Minot gets overcrowded they send them to Bismarck, Grand Forks or Fargo. I thought that if there was a way to provide more capabilities then we should do that. This chapter is for the involuntary commitment, where somebody thinks you are going to harm yourself or harm another person or do damage to a significant amount of property; they can petition the court to have you admitted and evaluated by a licensed mental health professional. This amendment says that in that 48 hour hold, that you can actually be restrained in a psychiatric ward, we're going to allow not only the physicians, but the physician assistants, or the advanced practice registered nurse to prescribe the medication for that person in the 48 hour period. The rest of the amendments are legislative council doing their housekeeping fixes. You see those changes throughout this bill. It doesn't relate to any changes we've requested.

Sen. Grabinger: On page 10, line 3, where you are making a suggestion, I think that there is a grammatical error, where it should say "alleged to be a person who is mentally ill".

Ch. Hogue: You're right. There is a caveat on the top of the amendments saying that there are formatting issues, please focus on the red and green. On page 10, line 29, "to be".

Sen. Luick: I move the amendments from Sen. Hogue.

Sen. Armstrong: Second the motion.

Ch. Hogue: Voice vote, motion carried. We now have the bill before us as amended.

Sen. Luick: I move a Do Pass and Amended.

Sen. Casper: Second the motion.

5 YES 0 NO 1 ABSENT

DO PASS AS AMENDED

CARRIER: Ch. Hogue

March 23, 2015

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1040

Page 3, line 14, overstrike "suffer from a mental illness" and insert immediately thereafter "be a person who is mentally ill"

Page 5, line 21, overstrike "suffering from a"

Page 5, line 22, overstrike "mental disorder or chemical dependency" and insert immediately thereafter "who are mentally ill or chemically dependent"

Page 10, line 3, overstrike "suffering"

Page 10, line 4, overstrike "from mental illness" and insert immediately thereafter "a person who is mentally ill"

Page 10, line 4, overstrike "combination of mental illness and chemical dependency" and insert immediately thereafter "person who is both mentally ill and chemically dependent"

Page 10, line 17, after "physician" insert ", a physician assistant, or an advanced practice registered nurse"

Page 10, line 22, overstrike "prescribing physician" and insert immediately thereafter "prescriber"

Page 10, line 27, after "be" insert "a"

Page 10, line 28, after "ill" insert "person"

Page 10, line 28, overstrike "suffering from a combination of chemical dependency and mental illness" and insert immediately thereafter "a person who is both mentally ill and chemically dependent"

Page 17, line 21, overstrike "suffering"

Page 17, line 22, overstrike "from mental illness" and insert immediately thereafter "a person who is mentally ill"

Page 17, line 22, overstrike "from a combination of mental illness and chemical dependency" and insert immediately thereafter "a person who is both mentally ill and chemically dependent"

Page 17, line 23, overstrike "suffering from chemical"

Page 17, line 24, overstrike "dependency" and insert immediately thereafter "a person who is chemically dependent"

Page 18, line 11, overstrike "suffering from mental illness" and insert immediately thereafter "a person who is mentally ill"

Page 18, line 11, overstrike "from a combination of mental illness and"

Page 18, line 12, overstrike "chemical dependency" and insert immediately thereafter "a person who is both mentally ill and chemically dependent"

Page 19, line 21, overstrike "suffering from mental illness or chemical dependency" and insert immediately thereafter "a person who is both mentally ill and chemically dependent"

3/24/15
JSC
1040
3/23/15

Renumber accordingly

2018
3/25/15
HB 1040

Date: 3/23/15
Voice Vote # 1

2015 SENATE STANDING COMMITTEE
VOICE VOTE
BILL/RESOLUTION NO. 1040

Senate Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: Sen. Hogue Amendment (#1)

Recommendation: ☒ Adopt Amendment

☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation

☐ As Amended ☐ Rerefer to Appropriations

☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Seconded By

Motion Made By Sen. Luick

Sen. Armstrong

Senators	Yes	No	Senators	Yes	No
Ch. Hogue			Sen. Grabinger		
Sen. Armstrong			Sen. C. Nelson		
Sen. Casper					
Sen. Luick					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice: Carried

Date: 3/23/16Roll Call Vote #: 22015 SENATE STANDING COMMITTEE
ROLL CALL VOTEBILL/RESOLUTION NO. 1040

Senate

JUDICIARY

Committee

☐ SubcommitteeAmendment LC# or Description: 15.0133.02001 03000Recommendation: ☐ Adopt Amendment☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation☒ As Amended ☐ Rerefer to Appropriations☐ Place on Consent CalendarOther Actions: ☐ Reconsider ☐ _____Motion Made By Sen. Luick Seconded By Sen. Casper

Senators	Yes	No	Senators	Yes	No
Chairman Hogue	✓		Sen. Grabinger	✓	
Sen. Armstrong	✓		Sen. C. Nelson	Absent	
Sen. Casper	✓				
Sen. Luick	✓				

Total (Yes) 5 No 0Absent 1Floor
Assignment Sen. Hogue

REPORT OF STANDING COMMITTEE

HB 1040, as engrossed: Judiciary Committee (Sen. Hogue, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1040 was placed on the Sixth order on the calendar.

Page 3, line 14, overstrike "suffer from a mental illness" and insert immediately thereafter "be a person who is mentally ill"

Page 5, line 21, overstrike "suffering from a"

Page 5, line 22, overstrike "mental disorder or chemical dependency" and insert immediately thereafter "who are mentally ill or chemically dependent"

Page 10, line 3, overstrike "suffering"

Page 10, line 4, overstrike "from mental illness" and insert immediately thereafter "a person who is mentally ill"

Page 10, line 4, overstrike "combination of mental illness and chemical dependency" and insert immediately thereafter "person who is both mentally ill and chemically dependent"

Page 10, line 17, after "physician" insert ", a physician assistant, or an advanced practice registered nurse"

Page 10, line 22, overstrike "prescribing physician" and insert immediately thereafter prescriber"

Page 10, line 27, after "be" insert "a"

Page 10, line 28, after "ill" insert "person"

Page 10, line 28, overstrike "suffering from a combination of chemical dependency and mental illness" and insert immediately thereafter "a person who is both mentally ill and chemically dependent"

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Page 18, line 12, overstrike "chemical dependency" and insert immediately thereafter "a person who is both mentally ill and chemically dependent"

Page 19, line 21, overstrike "suffering from mental illness or chemical dependency" and insert immediately thereafter "a person who is both mentally ill and chemically dependent"

Renumber accordingly

2015 TESTIMONY

HB 1040

test #1
HB 1040
1-13-15
pg 1

HOUSE BILL NO. 1040

Mr. Chairman, Members of the North Dakota House Judiciary Committee;

My name is Gregory Ian Runge. I am an attorney practicing law in the South Central District and for the past twenty-five (25) years, I have been practicing mental health law in Burleigh and Morton Counties. I am contracted with these two counties to provide legal representation to those respondents who are alleged to be mentally ill, chemically dependent and requiring treatment.

I am here today to speak in opposition to House Bill No. 1040. As the bill is presently written, the insertion of the "Advanced practice register nurse" is vague because it does not define the qualifications necessary to be able to properly assist in the diagnosis and treatment of either a mentally ill or chemically dependant person as it pertains to an involuntary commitment

The change requested merely states that the "scope of practice in one of the population foci as approved by the state board of nursing," referring to section 43-2.1 of the North Dakota Century Code. This section states that an:

#1
H81040
1-13-15
pg 2

"Advanced practice registered nurse" means an individual who holds a current license to practice in this state as an advanced practice registered nurse within one of the roles of certified nurse practitioner, certified registered nurse anesthetist, certified nurse midwife, or certified clinical nurse specialist, and who functions in one of the population foci as approved by the board.

N.D.Cent. Code 43-12.1-01(1) (2013).

This turns into a rounded definition which refers back to the previous reference.

There is no definition as to what qualifications are required to be a mental health professional. And, you can't assume that the word "foci" defines an "Advanced practice registered nurse" as qualified to make mental health diagnosis nor allow that person to prescribe psychotropic medication. There should be language similar to what is now present on page two line 23 which is now being struck out, that is, something to the effect this person should have some sort of specialized training in the area of psychiatry and mental health nursing. Even a psychologist has to have been "trained in a clinical program.

Additionally, any insertion of this definition should be inserted along with the listing under subsection c of the mental health professionals under subsection c, line 23.

I thank you for your time and would answer any questions you may have.

Gregory Ian Runge

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HB 1040
2-4-15
Pg 1

Proposed Language for an Amendment to HB 1040

1. "Advanced practice registered nurse" means an individual who is licensed as an advanced practice registered nurse under chapter 43 - 12.1 within the role of certified nurse practitioner or certified clinical nurse specialist, ^{Master's} who has completed the requirements for a minimum of a master's degree in psychiatric and mental health nursing from an accredited program, and who is functioning within the scope of practice in one of the population foci as approved by the state board of nursing. This chapter does not expand the scope of practice of an advanced practice registered nurse beyond the scope of practice established by the state board of nursing.

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HB1040-
2-4-15
pg 1

HOUSE JUDICIARY COMMITTEE

HOUSE BILL NO. 1040

**Proposed Amendments provided by the
State Board of Medical Examiners**

Duane Houdek
701.328.6500
dhoudek@ndbomex.org

Page 2, line 8:

Insert "physician assistant," after "physician,"

Page 2, line 13:

Insert "physician assistant," after "physician,"

Page 3, line 3:

Insert "g. A physician assistant."

Page 4, line 1:

Insert "14. "Physician assistant" means an individual licensed to practice as a physician assistant under chapter 43-17, who is authorized by the state board of medical examiners to practice in the field of psychiatry, holds a certification in psychiatry approved by the board, and is practicing under the supervision of a psychiatrist licensed to practice medicine in North Dakota. This chapter does not expand the scope of practice of a physician assistant beyond the scope of practice authorized by the state board of medical examiners."

And renumber subsequent paragraphs accordingly.

Page 7, line 5:

Insert "physician assistant," after "physician,"

Page 7, line 29:

Insert "physician assistant," after "physician,"

Page 9, line 4:

#2
1-18-04
2-4-15
pg 2

Insert "physician assistant," after "physician,"

Page 9, line 6:

Insert "physician assistant," after "physician,"

Page 9, line 9:

Insert "physician assistant," after "physician,"

Page 11, line 6:

Insert "physician assistant," after "physician,"

Page 13, line 19:

Insert "physician assistant," after "psychiatrist,"

Page 14, line 19:

Insert "physician assistant," after "physician,"

Page 14, line 26:

Insert "physician assistant," after "psychiatrist,"

Page 15, line 1:

Insert "physician assistant," after "psychiatrist,"

Page 16, line 7:

Insert "physician assistant," after "physician,"

Page 16, line 11:

Insert "physician assistant," after "physician,"

Page 18, line 7:

Insert "physician assistant," after "physician,"

#2
HB1040
2-4-15
pg 3

Page 18, line 11:

Insert "physician assistant," after "physician,"

Page 18, line 14:

Insert "physician assistant," after "physician,"

Page 18, line 24:

Insert "physician assistant," after "physician,"

SENATE JUDICIARY COMMITTEE

HOUSE BILL NO. 1040

March 16, 2015

Testimony of Duane Houdek
North Dakota State Board of Medical Examiners

Mr. Chairman, members of the Senate Judiciary Committee, my name is Duane Houdek. I represent the North Dakota State Board of Medical Examiners.

The Board supports this bill. It seems only right that providers who are qualified and licensed to provide behavioral health services, as are physician assistants and advanced practice registered nurses, be utilized in the commitment process. I can speak directly only for physician assistants, whom we license. In order for them to even qualify to apply for certification as a psychiatric physician assistant, they must have worked with a psychiatrist in that specialty for 2000 hours. They then must have an additional 150 CME hours in psychiatry and demonstrate their ability in the specialty through a certification examination that looks at both core psychiatric knowledge and patient care management.

We supported the amendments to include physician assistants, whom we license, on the House side and that passed overwhelmingly. I saw after the bill was amended that they were omitted through a technical error in one instance in the bill, and that is at Page No. 6, line 11.

"physician assistant," should be inserted after the word "physician". I mentioned this to legislative council staff, but they felt it went beyond a technical amendment and should be raised in this committee. I have prepared a separate amendment sheet to correct that omission.

I would be glad to try to answer any questions you may have.

SENATE JUDICIARY COMMITTEE

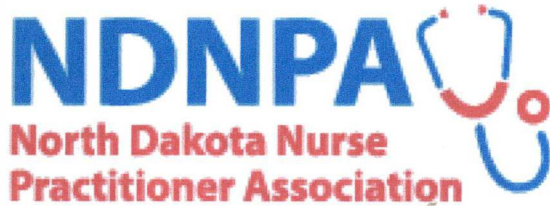
HOUSE BILL NO. 1040

March 16, 2015

Proposed Amendment
North Dakota State Board of Medical Examiners
Duane Houdek
701.328.6500
dhoudek@ndbomex.org

Page 6, line 11:

Insert "physician assistant," after the word "physician,".



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3/16/15

Chairman Hogue and Committee Members:

I am Cheryl Rising, FNP and legislative liaison for the North Dakota Nurse Practitioner Association (NDNPA)

I am submitting testimony in support of HB1040. Dr. Kalanek with the BON and I were present during discussion at the interim committee meetings that involved this bill. This bill was brought forward by a psychiatrist in ND who requested that Advance Practice Registered Nurses (APRNs) be added to the law. Those present at the interim meetings supported the changes.

NDNPA supports adding APRNs to this bill.

Cheryl Rising, FNP

701-527-2583

Legislative Liaison, NDNPA

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1040

1 A BILL for an Act to amend and reenact sections 25-03.1-02, 25-03.1-04, 25-03.1-06,
2 25-03.1-07, 25-03.1-08, 25-03.1-10, 25-03.1-11, 25-03.1-16, 25-03.1-17, 25-03.1-18.1, and
3 25-03.1-19, subsection 3 of section 25-03.1-21, and sections 25-03.1-23, 25-03.1-25,
4 25-03.1-26, 25-03.1-27, 25-03.1-41, and 25-03.1-42 of the North Dakota Century Code,
relating
5 to scope of practice in involuntary commitment proceedings; and to provide a penalty.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 25-03.1-02 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **25-03.1-02. Definitions.**

10 In this chapter, unless the context requires otherwise:

11 1. "Advanced practice registered nurse" means an individual who is licensed as an
12 advanced practice registered nurse under chapter 43- 12.1 within the role of certified
13 nurse practitioner or certified clinical nurse specialist, who has completed the
14 requirements for a minimum of a master's degree in psychiatric and mental health
15 nursing from an accredited program, and who is functioning within the scope of
16 practice in one of the population foci as approved by the state board of nursing. This
17 chapter does not expand the scope of practice of an advanced practice registered
18 nurse beyond the scope of practice established by the state board of nursing.

19 2. "Alternative treatment order" means an involuntary outpatient order for a treatment
20 program, other than hospitalization, which may include treatment with a prescribed
21 medication.

22 2.3. "Chemically dependent person" or "person who is chemically dependent" means an
23 individual with an illness or disorder characterized by a maladaptive pattern of usage

1-2

- 1 of alcohol or drugs, or a combination thereof, resulting in social, occupational,
2 psychological, or physical problems.
- 3 ~~3-4.~~ "Consent" means voluntary permission that is based upon full disclosure of facts
4 necessary to make a decision and which is given by an individual who has the ability
5 to understand those facts.
- 6 ~~4-5.~~ "Court" means, except when otherwise indicated, the district court serving the county
7 in which the respondent resides.
- 8 ~~5-6.~~ "Department" means the department of human services.
- 9 ~~6-7.~~ "Director" means the director of a treatment facility or the director's designee.
- 10 ~~7-8.~~ "Expert examiner" means a licensed physician, physician assistant, psychiatrist,
11 psychologist trained in a clinical program, advanced practice registered nurse, or
12 licensed addiction counselor appointed by the court to examine the respondent and
13 to provide an evaluation of whether the respondent is a person requiring treatment.
- 14 ~~8-9.~~ "Independent expert examiner" means a licensed physician, physician assistant,
15 psychiatrist, psychologist trained in a clinical program, advanced practice registered
16 nurse, or licensed addiction counselor, chosen at the request of the respondent to
17 provide an independent evaluation of whether the respondent is a person requiring
18 treatment.
- 19 ~~9-10.~~ "Magistrate" means the judge of the appropriate district or juvenile court or a judge
20 assigned by the presiding judge of the judicial district.
- 21 ~~10-11.~~ "Mental health professional" means:
22 a. A psychologist with at least a master's degree who has been either licensed or
23 approved for exemption by the North Dakota board of psychology examiners.
24 b. A social worker with a master's degree in social work from an accredited
25 program.
26 c. ~~A registered nurse with a master's degree in psychiatric and mental health~~
27 ~~nursing from an accredited program~~ An advanced practice registered nurse.
28 d. A registered nurse with a minimum of two years of psychiatric clinical experience
29 under the supervision of ~~a registered nurse as defined by subdivision c~~ or of an
30 expert examiner.
31 e. A licensed addiction counselor.

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1 f. A licensed professional counselor with a master's degree in counseling from an
2 accredited program who has either successfully completed the advanced training
3 beyond the master's degree as required by the national academy of mental
4 health counselors or a minimum of two years of clinical experience in a mental
5 health agency or setting under the supervision of a psychiatrist or psychologist.

6 g. A physician assistant.

7 ~~11.12.~~ "Mentally ill person" or "person who is mentally ill" means an individual with an
8 organic, mental, or emotional disorder ~~which~~ that substantially impairs the capacity to
9 use self-control, judgment, and discretion in the conduct of personal affairs and social
10 relations. ~~"Mentally ill person"~~ The term does not include an individual with an
11 intellectual disability of significantly subaverage general intellectual functioning
12 ~~which~~ that originates during the developmental period and is associated with
13 impairment in adaptive behavior, although ~~a person~~ an individual who is intellectually
14 disabled may also ~~suffer from a mental illness~~ be a person who is mentally ill.

15 Chemical dependency does not per se constitute mental illness, although persons
16 ~~suffering from that condition~~ a person who is chemically dependent may also be
17 ~~suffering from mental illness~~ a person who is mentally ill.

18 ~~12.13.~~ "Person requiring treatment" means a person who is mentally ill or a person who is
19 chemically dependent, and there is a reasonable expectation that if the
20 ~~person~~ individual is not treated for the mental illness or chemical dependency there
21 exists a serious risk of harm to that ~~person~~ individual, others, or property. "Serious-risk
22 of harm" means ~~a substantial likelihood of:~~

- 23 ~~a. Suicide, as manifested by suicidal threats, attempts, or significant depression~~
24 ~~relevant to suicidal potential;~~
25 ~~b. Killing or inflicting serious bodily harm on another person or inflicting significant~~
26 ~~property damage, as manifested by acts or threats;~~
27 ~~c. Substantial deterioration in physical health, or substantial injury, disease, or~~
28 ~~death, based upon recent poor self-control or judgment in providing one's shelter,~~
29 ~~nutrition, or personal care; or~~
30 ~~d. Substantial deterioration in mental health which would predictably result in~~
31 ~~dangerousness to that person, others, or property, based upon evidence of~~

1-4

1 objective facts to establish the loss of cognitive or volitional control over the
2 person's thoughts or actions or based upon acts, threats, or patterns in the
3 person's treatment history, current condition, and other relevant factors, including
4 the effect of the person's mental condition on the person's ability to consent.

5 ~~13-14.~~ "Physician assistant" means an individual licensed to practice as a physician assistant-
6 under chapter 43-17, who is authorized by the state board of medical examiners to
7 practice in the field of psychiatry, holds a certification in psychiatry approved by the
8 board, and is practicing under the supervision of a psychiatrist licensed to practice
9 medicine in this state. This chapter does not expand the scope of practice of a
10 physician assistant beyond the scope of practice authorized by the state board of
11 medical examiners.

12 15. "Private treatment facility" means any facility established under chapter 10-19.1 or
13 10-33 and licensed under chapter 23-16 or 50-31.

14 ~~44-16.~~ "Psychiatrist" means a licensed physician who has completed a residency program in
15 psychiatry.

16 ~~45-17.~~ "Public treatment facility" means any treatment facility not falling under the definition of
17 a private treatment facility.

18 ~~46-18.~~ "Qualified service organization" means a person or entity that provides services to a
19 treatment facility such as data processing, bill collecting, dosage preparation,
20 laboratory analysis, or legal, medical, accounting, or other professional services, and
21 which agrees that in dealing with patient records, it is bound by the confidentiality
22 restrictions of this chapter, except as otherwise provided for by law.

23 ~~47-19.~~ "Respondent" means ~~a person~~ an individual subject to petition for involuntary
24 treatment.

25 20. "Serious risk of harm" means a substantial likelihood of:

26 a. Suicide, as manifested by suicidal threats, attempts, or significant depression
27 relevant to suicidal potential;

28 b. Killing or inflicting serious bodily harm on another individual or inflicting significant
29 property damage, as manifested by acts or threats;

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c. Substantial deterioration in physical health or substantial injury, disease, or death based upon recent poor self-control or judgment in providing one's shelter, nutrition, or personal care; or

d. Substantial deterioration in mental health which would predictably result in dangerousness to that individual, others, or property, based upon evidence of objective facts to establish the loss of cognitive or volitional control over the individual's thoughts or actions or based upon acts, threats, or patterns in the individual's treatment history, current condition, and other relevant factors, including the effect of the individual's mental condition on the individual's ability to consent.

~~18-21.~~ "Superintendent" means the state hospital superintendent or the superintendent's designee.

~~19-22.~~ "Third-party payer" means a person or entity ~~who~~that pays, or agrees to pay, for diagnosis or treatment furnished to a patient on the basis of a contractual relationship with the patient or a member of the patient's family, or on the basis of the patient's eligibility for federal, state, or local governmental benefits, and includes any person or ~~entity~~ providing audit or evaluation activities for the third-party payer.

~~20-23.~~ "Treatment facility" or "facility" means any hospital, including the state hospital at Jamestown, or any evaluation and treatment facility that provides directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and inpatient care to ~~persons~~individuals ~~suffering from a mental disorder or chemical dependency~~who are mentally ill or chemically dependent.

SECTION 2. AMENDMENT. Section 25-03.1-04 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-04. Screening and admission to a public treatment facility.

Under rules adopted by the department, screening of an individual to a public treatment facility for observation, diagnosis, care, or treatment for mental illness or chemical dependency must be performed, in person ~~whenever~~when reasonably practicable, by a regional human service center. This screening must be performed in the region where the individual is physically located. Upon the request of a court, a law enforcement official, a qualified mental health professional, the individual's legal guardian, a minor's parent or legal custodian, or the individual

1 requesting services, the regional human service center shall conduct a screening. If a
2 request for screening is made by a qualified mental health professional and the individual
3 that is the subject of the screening does not authorize the disclosure of the individual's
4 protected health information, upon the request of the regional human service center, any
5 mental health professional who has treated the individual within the previous six months shall
6 disclose, subject to the requirements of title 42, Code of Federal Regulations, part 2, to the
7 human service center any relevant protected health information regarding that treatment.
8 Upon receipt of the request, the regional human service center shall arrange for a screening
9 of the individual and must, if appropriate, treat the applicant, or refer the applicant to the
10 appropriate treatment facility. Upon admittance to a public treatment facility, the
11 superintendent or director shall immediately designate a physician, psychiatrist, psychologist,
12 advanced practice registered nurse, or mental health professional to examine the individual.

13 **SECTION 3. AMENDMENT.** Section 25-03.1-06 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **25-03.1-06. Right to release on application - Exception - Judicial proceedings.**

16 Any ~~person~~individual voluntarily admitted for inpatient treatment to any treatment facility or
17 the state hospital must be orally advised of the right to release and must be further advised in
18 writing of the rights under this chapter. A voluntary patient who requests release must be
19 immediately released. However, if the superintendent or the director determines that the
20 patient is a person requiring treatment, the release may be postponed until judicial
21 proceedings for involuntary treatment have been held in the county where the hospital or
22 facility is located. The patient must be served the petition within twenty-four hours, exclusive of
23 weekends and holidays, from the time release is requested, unless extended by the magistrate
24 for good cause shown. The treatment hearing must be held within seven days from the time
25 the petition is served.

26 **SECTION 4. AMENDMENT.** Section 25-03.1-07 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **25-03.1-07. Involuntary admission standards.**

29 A ~~person~~An individual may be involuntarily admitted under this chapter to the state hospital
30 or another treatment facility only if it is determined that the individual is a person requiring
31 treatment.

1 **SECTION 5. AMENDMENT.** Section 25-03.1-08 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **25-03.1-08. Application to state's attorney or retained attorney - Petition for**
4 **involuntary treatment - Investigation by qualified mental health professional.**

5 1. Any ~~person~~individual eighteen years of age or over shall present the information
6 necessary for the commitment of an individual for involuntary treatment to the state's
7 attorney of the county where the respondent is presently located, or which is the
8 respondent's place of residence, or to an attorney retained by that ~~person~~applicant to
9 represent the applicant throughout the proceedings. The attorney shall assist the
10 ~~person~~applicant in completing the petition. The petition must be verified by affidavit of
11 the applicant and contain assertions that the respondent is a person requiring the
12 treatment; the facts, in detail, that are the basis of that assertion; the names,
13 telephone numbers, and addresses, if known, of any witnesses to those facts; and, if
14 known, the name, telephone number, and address of the nearest relative or guardian
15 of the respondent, or, if none, of a friend of the respondent.

16 2. The petition may be accompanied by any of the following:

17 4-~~a.~~ A written statement supporting the petition from a psychiatrist, physician,
18 physician assistant, psychologist, advanced practice registered nurse, or
19 addiction counselor who is practicing within the professional scope of practice
20 and who has personally examined the respondent within forty-five days of the
21 date of the petition.

22 2-~~b.~~ One or more supporting affidavits otherwise corroborating the petition.

23 3. In assisting the ~~person~~applicant in completing the petition, the state's attorney may
24 direct a qualified mental health professional designated by the regional human service
25 center to investigate and evaluate the specific facts alleged by the applicant. The
26 investigation must be completed as promptly as possible and include observations of
27 and conversation with the respondent, unless the respondent cannot be found or
28 refuses to meet with the mental health professional. A written report of the results of
29 the investigation must be delivered to the state's attorney. Copies of the report must
30 be made available upon request to the respondent, the respondent's counsel, and any
31 expert examiner conducting an examination under section 25-03.1-11. The state's

1 attorney or retained attorney shall file the petition if the information provided by the
2 petitioner or gathered by investigation provides probable cause to believe that the
3 subject of the petition is a person requiring treatment. A state's attorney who
4 determines there are insufficient grounds for filing a petition may refer the applicant to
5 other community resources. A state's attorney's decision not to institute proceedings
6 may be reviewed under section 11-16-06.

7 **SECTION 6. AMENDMENT.** Section 25-03.1-10 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **25-03.1-10. Involuntary treatment - Court-ordered examination.**

10 If the petition is not accompanied by a written supportive statement of a psychiatrist,
11 physician, physician assistant, psychologist, advanced practice registered nurse, or addiction
12 counselor who has examined the respondent within the last forty-five days, the court shall order
13 the respondent to be examined by an expert examiner of the respondent's own choice or one
14 appointed by the court. The order must state the date and time within which the respondent
15 must appear; the address to which the respondent is to report; a statement that if the
16 respondent fails to appear at the appointed place at or before the ordered date and time, the
17 respondent may be involuntarily taken into custody and transported to the appointed place; and
18 a statement that the expert examiner may consult with or request participation in the
19 examination by a qualified mental health professional and may include with the written
20 examination report any findings or observations by that mental health professional.
21 Accompanying the order must be an explanation of the intended uses and possible effects of
22 this examination. The examination may be conducted at a treatment facility, at the respondent's
23 home, or at any other suitable place in the community. A request for examination at the state
24 hospital must be screened and approved by a regional human service center. The respondent
25 may be accompanied by one or more relatives or friends at the place of the examination. The
26 costs of the court-ordered examination must be borne by the county that is the respondent's
27 place of residence.

28 **SECTION 7. AMENDMENT.** Section 25-03.1-11 of the North Dakota Century Code is
29 amended and reenacted as follows:

25-03.1-11. Involuntary treatment - Examination - Report.

1. The respondent must be examined within a reasonable time by an expert examiner as ordered by the court. If the respondent is taken into custody under the emergency treatment provisions of this chapter, the examination must be conducted within twenty-four hours, exclusive of holidays, of custody. Any expert examiner conducting an examination under this section may consult with or request participation in the examination by any qualified mental health professional and may include with the written examination report any findings or observations by that mental health professional. This examination report, and that of the independent examiner, if one has been requested, must be filed with the court. The report must contain:
 - a. Evaluations of the respondent's physical condition and mental status.
 - b. A conclusion as to whether the respondent is a person requiring treatment, with a clear explanation of how that conclusion was derived from the evaluation.
 - c. If the report concludes that the respondent is a person requiring treatment, a list of available forms of care and treatment that may serve as alternatives to involuntary hospitalization.
 - d. The signature of the examiner who prepared the report.
2. For purposes of any examination conducted pursuant to this section:
 - a. An evaluation of a respondent's physical condition may be made only by a licensed physician ~~or, physician assistant, psychiatrist, or advanced practice registered nurse.~~
 - b. An evaluation of a respondent's mental status may be made only by a licensed physician, physician assistant, psychiatrist, advanced practice registered nurse, or psychologist trained in a clinical program.
 - c. An evaluation of whether the respondent is chemically dependent may be made only by a licensed physician, physician assistant, psychiatrist, advanced practice registered nurse, licensed addiction counselor, or licensed psychologist trained in a clinical program.
3. If the expert examiner concludes that the respondent is not a person requiring treatment, the court may without taking any other additional action terminate the proceedings and dismiss the petition. If the expert examiner concludes that the

respondent is a person requiring treatment, or makes no conclusion thereon, the court shall set a date for hearing and shall give notice of hearing to the persons designated in section 25-03.1-12. If the respondent is in custody and is alleged ~~to be suffering from mental illness~~ a person who is mentally ill or a ~~combination of mental illness and chemical dependency~~ a person who is both mentally ill and chemically dependent, the preliminary hearing date must be within four days, exclusive of weekends and holidays, of the date respondent was taken into custody through emergency commitment under section 25-03.1-25 unless a delay or continuance is concurred in by the respondent or unless extended by the magistrate for good cause shown. If a preliminary hearing is not required, the treatment hearing must be held within four days, exclusive of weekends and holidays, of the date the court received the expert examiner's report, not to exceed fourteen days from the time the petition was served.

SECTION 8. AMENDMENT. Section 25-03.1-16 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-16. Medication pending treatment order.

A patient who has requested release or ~~a person~~ an individual who is the subject of a petition for treatment has the right to refuse medication and other forms of treatment before the preliminary or treatment hearing. However, a physician, physician assistant, or an advanced practice registered nurse may prescribe medication or a less restrictive alternative if it is necessary to prevent bodily harm to the respondent or others or to prevent imminent deterioration of the respondent's physical or mental condition. The patient has the right to be free of the effects of medication at the preliminary or treatment hearing by discontinuance of medication no later than twenty-four hours before the hearing unless, in the opinion of the prescribing physician, the need for the medication still exists or discontinuation would hamper the respondent's preparation for and participation in the proceedings.

SECTION 9. AMENDMENT. Section 25-03.1-17 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-17. Involuntary treatment - Right to preliminary hearing.

A respondent who is in custody under section 25-03.1-25 and who is alleged to be a mentally ill ~~person~~ person or ~~to be suffering from a combination of chemical dependency and mental illness~~ who is both mentally ill and chemically dependent is entitled to a preliminary hearing. At the preliminary hearing the magistrate shall review the medical report. During the hearing the petitioner and the respondent must be afforded an opportunity to testify and to present and cross-examine witnesses, and the court may receive the testimony of any

1 other interested person. The magistrate may receive evidence that would otherwise be
2 inadmissible at a treatment hearing. At the conclusion of the hearing, if the court does not find
3 probable cause to believe that the individual is a person requiring treatment, the petition must
4 be dismissed. The ~~person~~individual must be ordered discharged from the treatment facility if
5 that ~~person~~individual has been detained before the hearing. If the court finds probable cause to
6 believe that the respondent is a person requiring treatment, it shall consider less restrictive
7 alternatives to involuntary detention and treatment. The court may then order the respondent to
8 undergo up to fourteen days' treatment under a less restrictive alternative or, if it finds that
9 alternative treatment is not in the best interests of the respondent or others, it shall order the
10 respondent detained for up to fourteen days for involuntary treatment in a treatment facility.

11 The court shall specifically state to the respondent and give written notice that if involuntary
12 treatment beyond the fourteen-day period is to be sought, the respondent will have the right to a
13 treatment hearing as required by this chapter.

14 **SECTION 10. AMENDMENT.** Section 25-03.1-18.1 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **25-03.1-18.1. Court-authorized involuntary treatment with prescribed medication.**

17 1. a. Upon notice and hearing, a treating psychiatrist may request authorization from
18 the court to treat ~~a person~~an individual under a mental health treatment order
19 with prescribed medication. The request may be considered by the court in an
20 involuntary treatment hearing. As a part of the request, the treating psychiatrist
21 and another licensed physician ~~or, physician assistant, psychiatrist, or advanced~~
22 practice registered nurse not involved in the current diagnosis or treatment of the
23 patient shall certify:

- 24 (1) That the proposed prescribed medication is clinically appropriate and
25 necessary to effectively treat the patient and that the patient is a person
26 requiring treatment;
27 (2) That the patient was offered that treatment and refused it or that the patient
28 lacks the capacity to make or communicate a responsible decision about
29 that treatment;
30 (3) That prescribed medication is the least restrictive form of intervention
31 necessary to meet the treatment needs of the patient; and

- 1 (4) That the benefits of the treatment outweigh the known risks to the patient.
- 2 b. The court shall inquire whether the patient has had a sufficient opportunity to
- 3 adequately prepare to meet the issue of involuntary treatment with prescribed
- 4 medication and, at the request of the patient, the court may continue the
- 5 involuntary treatment hearing for a period not exceeding seven days or may
- 6 appoint an independent expert examiner as provided in subsection 4.
- 7 2. a. Evidence of the factors certified under subsection 1 may be presented to the
- 8 court at an involuntary treatment hearing held pursuant to sections 25-03.1-19
- 9 and 25-03.1-22, or at a separate hearing after motion and notice. The court in
- 10 ruling on the requested authorization for involuntary treatment with prescribed
- 11 medication shall consider all relevant evidence presented at the hearing,
- 12 including:
- 13 (1) The danger the patient presents to self or others;
- 14 (2) The patient's current condition;
- 15 (3) The patient's treatment history;
- 16 (4) The results of previous medication trials;
- 17 (5) The efficacy of current or past treatment modalities concerning the patient;
- 18 (6) The patient's prognosis; and
- 19 (7) The effect of the patient's mental condition on the patient's capacity to
- 20 consent.
- 21 b. Involuntary treatment with prescribed medication may not be authorized by the
- 22 court solely for the convenience of facility staff or for the purpose of punishment.
- 23 3. If the factors certified under subsection 1 have been demonstrated by clear and
- 24 convincing evidence, the court may include in its involuntary treatment order a
- 25 provision, or it may issue a separate order after notice and hearing, authorizing the
- 26 treating psychiatrist to involuntarily treat the patient with prescribed medication on
- 27 such terms and conditions as are appropriate. The order for involuntary treatment
- 28 with prescribed medication, however, may not be in effect for more than ninety days.
- 29 4. If a patient has requested an examination by an independent expert examiner under
- 30 this chapter, and if the treating psychiatrist has requested authorization for involuntary

1 treatment with prescribed medication, only a psychiatrist may independently examine
2 the patient as to the issue of involuntary treatment with prescribed medication.

3 **SECTION 11. AMENDMENT.** Section 25-03.1-19 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **25-03.1-19. Involuntary treatment hearing.**

6 The involuntary treatment hearing, unless waived by the respondent or the respondent has
7 been released as a person not requiring treatment, must be held within fourteen days of the
8 preliminary hearing. If the preliminary hearing is not required, the involuntary treatment hearing
9 must be held within four days, exclusive of weekends and holidays, of the date the court
10 received the expert examiner's report, not to exceed fourteen days from the time the petition
11 was served. The court may extend the time for hearing for good cause. The respondent has the
12 right to an examination by an independent expert examiner if so requested. If the respondent is
13 indigent, the county of residence of the respondent shall pay for the cost of the examination and
14 the respondent may choose an independent expert examiner.

15 The hearing must be held in the county of the respondent's residence or location or the
16 county where the state hospital or treatment facility treating the respondent is located. At the
17 hearing, evidence in support of the petition must be presented by the state's attorney, private
18 counsel, or counsel designated by the court. During the hearing, the petitioner and the
19 respondent must be afforded an opportunity to testify and to present and cross-examine
20 witnesses. The court may receive the testimony of any other interested person. All
21 persons~~individuals~~ not necessary for the conduct of the proceeding must be excluded, except
22 that the court may admit persons~~individuals~~ having a legitimate interest in the proceeding. The
23 hearing must be conducted in as informal a manner as practical, but the issue must be tried as
24 a civil matter. Discovery and the power of subpoena permitted under the North Dakota Rules of
25 Civil Procedure are available to the respondent. The court shall receive all relevant and material
26 evidence ~~which~~that may be offered as governed by the North Dakota Rules of Evidence. There
27 is a presumption in favor of the respondent, and the burden of proof in support of the petition is
28 upon the petitioner.

29 If, upon completion of the hearing, the court finds that the petition has not been sustained
30 by clear and convincing evidence, it~~the court~~ shall deny the petition, terminate the proceeding,

1 and order that the respondent be discharged if the respondent has been hospitalized before the
2 hearing.

3 **SECTION 12. AMENDMENT.** Subsection 3 of section 25-03.1-21 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 3. If a peace officer, physician either in person or directing an emergency medical
6 services professional, psychiatrist, physician assistant, clinical psychologist, advanced
7 practice registered nurse, or any mental health professional reasonably believes that
8 the respondent is not complying with an order for alternative treatment, that the
9 alternative treatment is not sufficient to prevent harm or injuries to the respondent or
10 others, and that considerations of time and safety do not allow intervention by a court,
11 the designated professional may cause the respondent to be taken into custody and
12 detained at a treatment facility as provided in subsection 3 of section 25-03.1-25 and,
13 within twenty-four hours, shall file a notice with the court stating the circumstances and
14 factors of the case. The state hospital or public treatment facility ~~must~~shall
15 immediately accept, if appropriately screened and medically stable, and a private
16 treatment facility may accept, the respondent on a provisional basis. The
17 superintendent or director shall require an immediate examination of the respondent
18 and, within twenty-four hours after admission, shall either release the respondent
19 subject to the conditions of the original order or file a notice with the court stating in
20 detail the circumstances and factors of the case. The court shall, within forty-eight
21 hours of receipt of the notice of the superintendent or director, after a hearing and
22 based on the evidence presented and other available information:

- 23 a. Release the individual from hospitalization and continue the alternative treatment
24 order;
- 25 b. Consider other alternatives to hospitalization, modify its original order, and direct
26 the individual to undergo another program of alternative treatment for the
27 remainder of the commitment period; or
- 28 c. Enter a new order directing that the respondent remain hospitalized until
29 discharged from the hospital under section 25-03.1-30.

30 **SECTION 13. AMENDMENT.** Section 25-03.1-23 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **25-03.1-23. Petition for continuing treatment orders.**

2 A petition for an order authorizing continuing treatment must contain a statement setting
3 forth the reasons for the determination that the patient continues to be a person requiring
4 treatment; a statement describing the treatment program provided to the patient and the results
5 of that treatment; and a clinical estimate as to how long further treatment will be required. The
6 petition must be accompanied by a certificate executed by a physician, physician assistant,
7 psychiatrist, psychologist, advanced practice registered nurse, or licensed addiction counselor,
8 any of whom is practicing within that individual's professional scope of practice.

9 **SECTION 14. AMENDMENT.** Section 25-03.1-25 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **25-03.1-25. Detention or hospitalization - Emergency procedure.**

- 12 1. When a peace officer, physician either in person or directing an emergency medical
13 services professional, psychiatrist, physician assistant, psychologist, advanced
14 practice registered nurse, or mental health professional has reasonable cause to
15 believe that an individual is a person requiring treatment and there exists a serious
16 risk of harm to that ~~person~~individual, ~~other persons~~others, or property of an immediate
17 nature that considerations of safety do not allow preliminary intervention by a
18 magistrate, the peace officer, physician either in person or directing an emergency
19 medical services professional, psychiatrist, physician assistant, psychologist,
20 advanced practice registered nurse, or mental health professional, using the screening
21 process set forth in section 25-03.1-04, may cause the ~~person~~individual to be taken
22 into custody and detained at a treatment facility as provided in subsection 3, and
23 subject to section 25-03.1-26, except that if emergency conditions exist that prevent
24 the immediate conveyance of the individual to a public treatment facility, a private
25 facility that has adequate resources and capacity to hold that individual may hold the
26 individual in anticipation of conveyance to a public treatment facility for up to
27 twenty-three hours:
- 28 a. Without conducting an immediate examination required under section
29 25-03.1-26; and
- 30 b. Without following notice and hearing requirements for a transfer to another
31 treatment facility required under subsection 3 of section 25-03.1-34.

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- 1 2. If a petitioner seeking the involuntary treatment of a respondent requests that the
2 respondent be taken into immediate custody and the magistrate, upon reviewing the
3 petition and accompanying documentation, finds probable cause to believe that the
4 respondent is a person requiring treatment and there exists a serious risk of harm to
5 the respondent, ~~other persons~~others, or property if allowed to remain at liberty, the
6 magistrate may enter a written order directing that the respondent be taken into
7 immediate custody and be detained as provided in subsection 3 until the preliminary
8 or treatment hearing, which must be held no more than seven days after the date of
9 the order.
- 10 3. Detention under this section may be:
 - 11 a. In a treatment facility where the director or superintendent must be informed of
12 the reasons why immediate custody has been ordered. The facility may provide
13 treatment that is necessary to preserve the respondent's life or to appropriately
14 control behavior by the respondent which is likely to result in physical injury to
15 self or to others if allowed to continue, but may not otherwise provide treatment to
16 the respondent without the respondent's consent; or
 - 17 b. In a public or private facility in the community which is suitably equipped and
18 staffed for the purpose. Detention in a jail or other correctional facility may not be
19 ordered except in cases of actual emergency when no other secure facility is
20 accessible, and then only for a period of not more than twenty-four hours and
21 under close supervision.
- 22 4. Immediately upon being taken into custody, the ~~person~~individual must be advised of
23 the purpose of custody, of the intended uses and possible effects of any evaluation
24 that the ~~person~~individual undergoes, and of the ~~person's~~individual's rights to counsel
25 and to a preliminary or treatment hearing.
- 26 5. Upon arrival at a facility the peace officer, physician, physician assistant, psychiatrist,
27 psychologist, advanced practice registered nurse, or mental health professional who
28 conveyed the ~~person~~individual or who caused the ~~person~~individual to be conveyed
29 shall complete an application for evaluation and shall deliver a detailed written report
30 from the peace officer, physician, physician assistant, psychiatrist, psychologist,
31 advanced practice registered nurse, or the mental health professional who caused the

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~~person~~individual to be conveyed. The written report must state the circumstances under which the ~~person~~individual was taken into custody. The report must allege in detail the overt act that constituted the basis for the beliefs that the individual is a person requiring treatment and that, because of that ~~person's~~individual's condition, there exists a serious risk of harm to that ~~person~~individual, ~~another person~~others, or property if the ~~person~~individual is not immediately detained.

SECTION 15. AMENDMENT. Section 25-03.1-26 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-26. Emergency procedure - Acceptance of petition and individual - Notice - Court hearing set.

1. A public treatment facility immediately shall accept and a private treatment facility may accept on a provisional basis the application and the ~~person~~individual admitted under section 25-03.1-25. The superintendent or director shall require an immediate examination of the subject and, within twenty-four hours after admission, shall either release the ~~person~~individual if the superintendent or director finds that the subject does not meet the emergency commitment standards or file a petition if one has not been filed with the court of the ~~person's~~individual's residence or the court which directed immediate custody under subsection 2 of section 25-03.1-25, giving notice to the court and stating in detail the circumstances and facts of the case.
2. Upon receipt of the petition and notice of the emergency detention, the magistrate shall set a date for a preliminary hearing, if the respondent is alleged to be ~~suffering from mental illness~~a person who is mentally ill or ~~from a combination of mental illness and chemical dependency~~a person who is both mentally ill and chemically dependent, or a treatment hearing, if the respondent is alleged to be ~~suffering from chemical dependency~~a person who is chemically dependent, to be held no later than four days, exclusive of weekends and holidays, after detention unless the person has been released as a person not requiring treatment, has been voluntarily admitted for treatment, has requested or agreed to a continuance, or unless the hearing has been extended by the magistrate for good cause shown. The magistrate shall appoint counsel if one has not been retained by the respondent.

SECTION 16. AMENDMENT. Section 25-03.1-27 of the North Dakota Century Code is amended and reenacted as follows:

1 **25-03.1-27. Notice and statement of rights.**

- 2 1. ~~Whenever any person~~When an individual is detained for emergency evaluation and
 3 treatment under this chapter, the superintendent or director shall cause both the
 4 patient and, if possible, a responsible member of the patient's immediate family, a
 5 guardian, or a friend, if any, to receive:
- 6 a. A copy of the petition which asserted that the individual is a person requiring
 7 treatment.
 - 8 b. A written statement explaining that the individual will be examined by an expert
 9 examiner within twenty-four hours of hospitalization, excluding holidays.
 - 10 c. A written statement in simple terms explaining the rights of the individual alleged
 11 to be ~~suffering from mental illness~~a person who is mentally ill or ~~from a~~
~~combination of mental illness and~~
~~chemical dependency~~a person who is both mentally ill and chemically dependent
 12 to a preliminary hearing, to be present at the hearing, and
 13 to be represented by legal counsel, if the individual is certified by an expert
 14 examiner or examiners as a person requiring treatment.
 - 15 d. A written statement in simple terms explaining the rights of the individual to a
 16 treatment hearing, to be present at the hearing, to be represented by legal
 17 counsel, and the right to an independent medical evaluation.
- 18 2. If the individual is unable to read or understand the written materials, every reasonable
 19 effort must be made to explain themthe written material in a language the individual
 20 understands, and a note of the explanation and by whom made must be entered into
 21 the patient record.

22 **SECTION 17. AMENDMENT.** Section 25-03.1-41 of the North Dakota Century Code is
 23 amended and reenacted as follows:

24 **25-03.1-41. Limitations and restrictions of patient's rights.**

25 The rights enumerated in subsections 5, 6, 7, and 8 of section 25-03.1-40 may be limited or
 26 restricted by the treating physician, physician assistant, psychiatrist, advanced practice
 27 registered nurse, or psychologist trained in a clinical program, if in that ~~person's~~individual's
 28 professional judgment to do so would be in the best interests of the patient and the rights are
 29 restricted or limited in the manner authorized by the rules adopted pursuant to section
 30 25-03.1-46. ~~Whenever~~When a physician, physician assistant, psychiatrist, advanced practice
 31 registered nurse, or psychologist trained in a clinical program responsible for treatment of a

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1 particular patient imposes a special restriction on the rights of the patient as authorized by the
2 rules, a written order specifying the restriction and the reasons for the restriction must be signed
3 by the physician, physician assistant, psychiatrist, advanced practice registered nurse, or
4 psychologist trained in a clinical program and attached to the patient's chart. These restrictions
5 must be reviewed at intervals of not more than fourteen days and may be renewed by following
6 the procedure set out in this section.

7 **SECTION 18. AMENDMENT.** Section 25-03.1-42 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **25-03.1-42. Limitation of liability - Penalty for false petition.**

- 10 1. A person acting in good faith upon either actual knowledge or reliable information
11 ~~whewhich~~ makes the petition for involuntary treatment of ~~another person~~ an individual
12 under this chapter is not subject to civil or criminal liability.
- 13 2. A physician, physician assistant, psychiatrist, psychologist, advanced practice
14 registered nurse, mental health professional, employee of a treatment facility, state's
15 attorney, or peace officer who in good faith exercises professional judgment in fulfilling
16 an obligation or discretionary responsibility under this chapter is not subject to civil or
17 criminal liability for acting unless it can be shown that it was done in a negligent
18 manner.
- 19 3. A person ~~whethat~~ makes a petition for involuntary treatment of ~~another person~~ an
20 individual ~~with~~out having good cause to believe that the ~~other person~~ individual is
21 ~~suffering from mental illness or chemical dependency~~ a person who is both mentally ill
22 and chemically dependent and as a result is likely to cause serious harm to self or
23 others is guilty of a class A misdemeanor.

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