

2015 SENATE HUMAN SERVICES

SB 2237

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2237
1/26/2015
22478

☐ Subcommittee
☐ Conference Committee

Donald Mueller



Explanation or reason for introduction of bill/resolution:

A bill relating to information received by the Department of Human Services for substance abuse treatment programs; and to declare an emergency

Minutes:

Attach #1: Testimony by Sandra DePountis
Attach #2: Written Testimony provided by Mike Reitan
Attach #3: Testimony by Julie Leer
Attach #4: Proposed Amendments

Chairman Judy Lee (District 13), introduced SB 2237 to the committee. This bill is about the data that is appropriately kept private is kept private, and the data that can be released actually can be released. There is concern about HIPAA and other regulations regarding patient privacy. There is some data that should be available to certain entities. The Department of Human Services worked with the Attorney General's office.

Sandra DePountis, Assistant Attorney General, testified IN FAVOR of SB 2237. (Attach #1) (2:31-7:09)

Mike Reitan, Chief of Police, provided written testimony IN FAVOR of SB 2237 (Attach #2)

Chairman Judy Lee stated individually identifiable health information is quite specific to HIPAA, and has its own brand. We want to make sure whether or not it is exactly HIPAA or other things as well.

Ms. DePountis agreed. It doesn't reference HIPAA, but it does use that phrase. That is the information they do want to protect is the individually identifiable information.

Senator Howard Anderson, Jr. asked do you envision the possibility where there might be some proprietary information connected with that application that might be protected under a different statute.

Ms. DePountis indicated absolutely, we have seen this. That would already be covered under another statute that would protect that information.

Senator Warner stated there may be court order treatment, with the legal status of the patients become public record or is it a confidential record?

Ms. DePountis stated that she was not sure. Usually the courts determine what information of their own that they are providing is confidential. That information that would personally identify the individual would be protected.

Senator Dever stated why Chief Reitan would want this information and why it would be important for him to have it. Under the current interpretation, did you deny his request?

Ms. DePountis indicated the request was denied.

Senator Dever then asked if he appealed to the attorney general's office, and that was their opinion as well.

Ms. DePountis stated that he originally asked for an open record opinion from the attorney general's office. When they started the opinion process and had conversations with Department of Human Services and West Fargo, it was mutually determined that we should amend this law rather than go forward with the opinion process.

Chairman Judy Lee indicated that the Department of Human Services will provide additional information. We are talking about a Methadone clinic here.

Julie Leer, Attorney for Department of Human Services, testified IN FAVOR of SB 2237. (attach #3) (11:20-13:01). Ms. Leer also included proposed amendment (attach #4).

Chairman Judy Lee asked Ms. Leer if she had met with Attorney General's office.

Ms. Leer indicated they had given them the information this morning. Our big concern is the language that is written proposed in SB 2237 is identifiable HIPAA standard, and the attorney general's office also acknowledged that. Treatment records can encompass so much more than what might be identifiable information, from things that might come from the court, there could be child abuse and neglect, foster care, and other information that may not fall under HIPAA, and maybe not even under 42 CFR Part II, but they are records that are confidential under various other laws. If they come to us, we try to keep them confidential but we are trying to avoid confusion, not create more.

End of Ms. Leer

Chairman Judy Lee indicated that this is a new thing for the Department of Human Services. They were trying to figure out how to best establish the rules for a community who is being asked if there is a place for methadone clinics can be providing services. In Bismarck and Minot, the business is out of Billings, and all that company does is administer methadone. One company was turned down in Moorhead, so the company looked in West Fargo, and the Department of Human Services was thinking that when they developed their rules, that they needed to have a sight before they had public comment. Public Officials, however, would like more engagement in this discussion about where one would be located considering public transportation, parking, and other issues, including an investigation of

the background of the business before being moved in. The city of West Fargo has a one year moratorium on any facility being approved at this time because they feel some of the things needs to worked out. This is confirmed by Captain Reitan's letter. The bottom line, nobody wants to know the clients information.

Ms. Leer stated that when she presented the amendments to the Attorney General's office, is it clear that client in this context means the person receiving treatment. We believe it is.

Senator Warner stated that he associates the word methadone with treatment for heroin. Does this also apply to OxyContin and prescription medicines?

Ms. Leer stated it is opioid treatment programs, so it includes any opioit.

Chairman Judy Lee indicated the highest usage is heroin addicts. Whether this is the perfect solution is still questioned.

Ms. Leer also indicated a great increase in prescription drug abuse.

OPPOSITION

No opposing testimony.

NETURAL

Ms. DePountis, Attorney General's office, provided further information. They acknowledge that Department of Human Services has the information, uses these records, and know better than their office what is in their records on what information they are going to be receiving. We do give deference to them, and what data needs to be protected. However, with confidentiality clauses, we want to be very clear on what is protected. Things like client record is not defined anywhere in this chapter, so they see this broad and have concerns with this. We want to make sure that the non-patient information can be available to the public.

Chairman Judy Lee asked that Ms. Leer and Ms. DePountis sit down and discuss. There is a higher level for confidentiality of substance abuse.

Senator Dever recalled that part of the discussion was whether treatment was offered for one day or patients were given the treatment for one week. Is that kind of information is protected

Chairman Judy Lee indicated that she has found out that there are people who are on methadone for 30 years.

Senator Dever indicated someone who was on for 33 years, and led a normal life.

Ms. DePountis agreed, questioning whether that information be protected under the client information.

NEUTRAL

No neutral testimony

Closed Public Hearing

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2237
1/28/2015
22741

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Donald Mueller

Explanation or reason for introduction of bill/resolution:

A bill relating to information received by the Department of Human Services for substance abuse treatment programs; and to declare an emergency

Minutes:

Attach #1: Proposed Amendment
Attach #2: Revised Proposed Amendment

Chairman Judy Lee discussed the proposed amendment. (attach #1, attach #2). This more specifically points out Ms. Leer indicated what the federal law designations are that are specifically excluded. **Senator Howard Anderson, Jr.** thought the second amendment was fine.

Senator Warner made a motion that the Senate Human Services Committee move TO AMEND SB 2237 with amendments provided by Department of Human Services, Attach #2. The motion was seconded by **V. Chairman Oley Larsen**. No discussion.

Roll Call Vote

6 Yes, 0 No, 0 Absent. Motion passed.

Senator Warner made a motion that the Senate Human Services Committee recommends a DO PASS to SB 2237 as amended. **V. Chairman Oley Larsen** seconded the motion. No discussion.

Roll Call Vote

6 Yes, 0 No, 0 Absent. Motion Passed

V. Chairman Oley Larsen will carry SB 2237 to the floor.

January 28, 2015

TD
1/28/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2237

Page 1, line 8, replace "Individually identifiable health information of a patient" with "Client records and client information that are protected under title 42, Code of Federal Regulations, part 2, the Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191; 110 Stat. 1936; 29 U.S.C. 1181 et seq.], or are specifically excluded from disclosure by other state or federal law, and which are"

Page 1, line 9, overstrike "is" and insert immediately thereafter "are"

Page 1, line 10, after "license" insert ". As used in this section, client records and client information does not include statistical program information or information regarding an applicant's or provider's programs"

Renumber accordingly

Date: 01/28 2015
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2231

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: Amendment 15-8170.01001 Title .02000

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐

Motion Made By Warner Seconded By Larson

| Senators | Yes | No | Senators | Yes | No |
|---------------------------------|-----|----|------------------------|-----|----|
| Senator Judy Lee (Chairman) | ✓ | | Senator Tyler Axness | ✓ | |
| Senator Oley Larson (V-Chair) | ✓ | | Senator John M. Warner | ✓ | |
| Senator Howard C. Anderson, Jr. | ✓ | | | | |
| Senator Dick Dever | ✓ | | | | |
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Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

Date: 01/28 2015
Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2237

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: 15.8170.01001 Title .02000

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐

Motion Made By Warner Seconded By Larsen

| Senators | Yes | No | Senators | Yes | No |
|---------------------------------|-----|----|------------------------|-----|----|
| Senator Judy Lee (Chairman) | ✓ | | Senator Tyler Axness | ✓ | |
| Senator Oley Larson (V-Chair) | ✓ | | Senator John M. Warner | ✓ | |
| Senator Howard C. Anderson, Jr. | ✓ | | | | |
| Senator Dick Dever | ✓ | | | | |
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Total (Yes) 6 No 0

Absent 0

Floor Assignment Larsen

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

REPORT OF STANDING COMMITTEE

SB 2237: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2237 was placed on the Sixth order on the calendar.

Page 1, line 8, replace "Individually identifiable health information of a patient" with "Client records and client information that are protected under title 42, Code of Federal Regulations, part 2, the Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191; 110 Stat. 1936; 29 U.S.C. 1181 et seq.], or are specifically excluded from disclosure by other state or federal law, and which are"

Page 1, line 9, overstrike "is" and insert immediately thereafter "are"

Page 1, line 10, after "license" insert ". As used in this section, client records and client information does not include statistical program information or information regarding an applicant's or provider's programs"

Renumber accordingly

2015 HOUSE HUMAN SERVICES

SB 2237

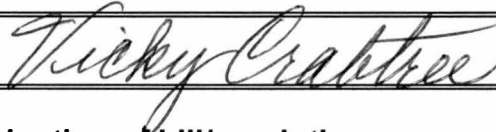
2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2237
3/17/2015
Job #24943

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to information received by DHS for substance abuse treatment programs and declare an emergency.

Minutes:

Testimonies 1-2

Chairman Weisz opened the hearing on SB 2237.

Sen. Judy Lee: Introduced and supported the bill. This is to clarify the individually identifiable health information of a patient being confidential. This language was worked out between the DHS and the Attorney General's Office to make sure we had what we needed to be properly protected.

Sandra DePountis: Assistant Attorney General testified in support of the bill. (See Testimony #1)

6:40

Mike Reitan: Chief of Police, West Fargo Police Department testified in support of the bill. (See Testimony #2)

NO OPPOSITION

Chairman Weisz closed the hearing on SB 2237.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2237
3/17/2015
Job #24944

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Vicky Crabtree

Minutes:

Chairman Weisz took up SB 2237

Rep. Hofstad: I move a Do PASS on engrossed SB 2237.

Rep. Porter: Second.

ROLL CALL VOTE: 11 y 0 n 2 absent

MOTION CARRIED

Bill Carrier: Rep. Seibel

Date: 3-17-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2237

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: _____

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

Motion Made By Rep. Hofstad Seconded By Rep. Porter

| Representatives | Yes | No | Representatives | Yes | No |
|---------------------|-----|----|-----------------|-----|----|
| Chairman Weisz | ✓ | | Rep. Mooney | A | |
| Vice-Chair Hofstad | ✓ | | Rep. Muscha | ✓ | |
| Rep. Bert Anderson | ✓ | | Rep. Oversen | ✓ | |
| Rep. Dick Anderson | ✓ | | | | |
| Rep. Rich S. Becker | ✓ | | | | |
| Rep. Damschen | ✓ | | | | |
| Rep. Fehr | A | | | | |
| Rep. Kiefert | ✓ | | | | |
| Rep. Porter | ✓ | | | | |
| Rep. Seibel | ✓ | | | | |
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Total (Yes) 11 No 0

Absent 2

Floor Assignment Rep. Seibel

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

REPORT OF STANDING COMMITTEE

SB 2237, as engrossed: Human Services Committee (Rep. Weisz, Chairman)
recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).
Engrossed SB 2237 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

SB 2237

Testimony on S. B. 2237
Before the Human Services Committee
January 26, 2015

SB2237
01/26/15
Attach #1
J# 22478

Testimony prepared by Sandra DePountis
Assistant Attorney General

This bill amends and clarifies what is protected in records regarding opioid treatment programs received by the Department of Human Services.

The background information below is intended to explain the reasons for the proposed amendment.

The Department of Human Services regulates opioid treatment programs under North Dakota Century Code ch. 50-31. There are two stages of DHS involvement with such programs, first the application and licensing process, and second the follow up investigations to confirm compliance with state and federal regulations.

Recently, application materials were submitted to DHS by a company called Premier Care, a drug treatment provider that wanted to open an opioid treatment program in West Fargo. Several documents must be submitted in the application package for opioid treatment programs, including a certificate documenting the need for such a program in the area, policy and procedure manuals, documentation of compliance with all county, city or tribal ordinances, and a community relations plan addressing community input regarding the proposed location and services. The West Fargo Police Department requested copies of Premier Care's application documents from DHS under open records law. This request was denied by DHS under N.D.C.C. § 50-31-06, the statute that would be amended by the proposed bill.

The way this statute is currently written, all information obtained by DHS through "inspections" of opioid treatment programs is considered confidential. This was

interpreted to cover all information and records received by DHS from opioid treatment programs because DHS claimed it was “inspecting” those records. This included the application records requested by the police department.

As the Premier Care example illustrates, the current statute is confusing. “Inspections” is not defined in the chapter. The information in the application package did not identify individual patients and was not otherwise highly sensitive. The application materials did not appear to contain any information that needed protection from open records requests. It also appeared convoluted to deny these records because part of the application requires community input, which would require this information be public. It was further concerning that the police department would not have access to records relating to an opioid treatment program in its jurisdiction.

After speaking with the West Fargo Police Department and DHS, it was mutually agreed that a change was needed to the current law. The information DHS really wants to protect is identifiable patient information it may receive. The police department never wanted to receive identifiable patient information, but rather wanted information on the specifics of the program. The amendment in this bill meets these two criteria. It protects what DHS wants protected, and makes public that which the police department, and really any member of the public, would want to access.

The proposed amendment provides that any “individually identifiable health information of a patient” DHS receives in regulating opioid treatment programs is confidential. The use of the term “individually identifiable health information” narrowly tailors what is protected and is consistent with HIPAA privacy requirements for patient records. De-identified, aggregate or general information related to opioid treatment

programs (such as records of the number of patients served, hours of operation, types of patient care provided by the program, de-identified audit reports, etc.) would be available, however, for DHS to release. This strikes a balance between two very important principles: patient privacy and open records.

Senate Bill 2237

Sixty-fourth Legislative Assembly

Testimony of Mike Reitan, Chief of Police, West Fargo Police Department

Attach#2
01/26/15
J#22478
SB2237

Good morning Chairman Lee, Vice Chair Larsen and members of the Human Services Committee. My name is Mike Reitan and I am the Chief of Police of the West Fargo Police Department. I respectfully submit my written testimony requesting your support of Senate Bill 2237.

In September of 2014 I heard from a second hand source that a company named Premier Care had made an application with the Department of Human Services (DHS) to open a methadone treatment clinic in the city of West Fargo. To further investigate the rumored clinic opening I contacted DHS. I learned Premier Care had followed the DHS Administrative Rules relating to Methadone Treatment facilities and filed a Certification for Need in March 2014. DHS approved the certification in April. Premier Care filed an Application of License and a Plan for Community Relations in July. At no time did DHS reach out to the city to inform them of the planned clinic. Premier Care had made a limited inquiry of the city relating solely to a zoning question for drug treatment programs.

The City of West Fargo enacted a one year moratorium in October until the city had the opportunity to further investigate the proposed clinic. As part of the investigation I requested copies of documents filed by Premier Care to include the Certification of Need; the Application of License; and the Plan for Community Relations. None of the documents are believed to contain personally protection medical information. DHS refused to provide the requested copies citing NDCC 50-31-06. I filed an appeal with the Attorney General's Office under the Open Records Law. While no official ruling was made, a review of NDCC 50-31-06 found the statute to be unclear in its intent and a recommendation for amendment was made.

Methadone clinics are a unique form of drug treatment and can result in very special conditions existing within the community. The concern is significant enough DHS had included a requirement of the Plan for Community Relations within their Administrative Rules. My request was made for the purpose of preparing my community for the methadone clinic which appeared to soon be opening. Certainly there was the appearance of secrecy between Premier Care and DHS. Had the city been included in the discussions beginning in March the outcome may have been much different. Protecting the application materials filed by Premier Care with DHS serves no useful purpose and is overly broad in the application of NDCC 50-31-06. The amendment before you protects that information that should be protected, the identifiable health information of an individual.

I thank you for your time and ask for your fair consideration in support of SB2237.

Michael D Reitan
Chief of Police, West Fargo
701-433-5521 Office
701-367-1708 Mobile
Mike.reitan@westfargond.gov

Attach 3
01/26/2015
J# 22478
SB2237

Testimony
Senate Bill 2237– Department of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman
January 26, 2015

Madam Chairman, Members of the Senate Human Services Committee, my name is Julie Leer, I'm an attorney with the Department of Human Services (Department), and I am here today to offer amendments on Senate Bill No. 2237. The Department does not oppose making changes to NDCC section 50-31-06. The proposed language, however, may create perceived inconsistencies in the application of privacy laws protecting patient information that the Department obtains as the licensor of substance abuse treatment programs.

The language proposed in Senate Bill No. 2237 would protect "individually identifiable health information of a patient." "Individually identifiable health information" is information that is required to be protected under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). In addition to HIPAA, other confidentiality laws exist to protect patient information, including substance abuse treatment information. Most notably 42 CFR Part 2 governs the confidentiality of alcohol and drug abuse patient records. The Department is concerned that if the language proposed only references language commonly identified as a HIPAA standard, a reader might understand that to suggest the other confidentiality laws are not applicable in this situation.

To recognize that patient information may be regulated by confidentiality laws in addition to HIPAA and to recognize that client treatment records are not limited to patient charts, the Department proposes to amend Senate Bill No. 2237 to allow for the confidentiality of all client records and information

the Department acquires in its role as licensor of substance abuse treatment programs. I have included an amendment for your consideration. This amendment is consistent with the sponsors' apparent intent to protect the confidentiality of client records and information, while making other information the Department obtains as the licensor of substance abuse treatment programs available for review by the public.

I would be happy to answer your questions.

Thank you.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2237

Attach #4
01/26/2015
SB 2237
J# 22478

Page 1, line 8, replace "Individually identifiable health information of a patient" with
"Client records and client information"

Page 1, line 9, overstrike "is" and insert immediately thereafter "are"

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2237

Attach 1 01/28/15
SB2237
01/28/2015
J# 22741

Page 1, line 8, replace "Individually identifiable health information of a patient" with "Client records and client information"

Page 1, line 9, overstrike "is" and insert immediately thereafter "are"

Page 1, line 10, after "license" insert " As used in this section, client records and client information does not include statistical program information or information regarding an applicant's or provider's programs."

Renumber accordingly

01/28/2015 SB2237

Attach #2

J# 22741

PROPOSED AMENDMENTS TO SENATE BILL NO. 2237

Page 1, line 8, replace "Individually identifiable health information of a patient" with "Client records and client information that are protected under title 42, Code of Federal Regulations, part 2 or the Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191; 110 Stat. 1936; 29 U.S.C. 1181 et seq.], or that are specifically excluded from disclosure by other state or federal law, and which are"

Page 1, line 9, overstrike "is" and insert immediately thereafter "are"

Page 1, line 10, after "license" insert ". As used in this section, client records and client information does not include statistical program information or information regarding an applicant's or provider's programs."

Renumber accordingly

#1

Testimony on Engrossed S. B. 2237
Before the Human Services Committee
March 17, 2015

Testimony prepared by Sandra DePountis
Assistant Attorney General

This bill amends and clarifies what is protected in records regarding substance abuse treatment programs received by the Department of Human Services. The background information below is intended to explain the reasons for the proposed amendment.

The Department of Human Services regulates substance abuse treatment programs under North Dakota Century Code ch. 50-31. There are two stages of DHS involvement with such programs, first the application and licensing process, and second the follow up investigations to confirm compliance with state and federal regulations.

Recently, application materials were submitted to DHS by a company called Premier Care, a drug treatment provider that wanted to open an opioid treatment program in West Fargo. Several documents must be submitted in the application package for opioid treatment programs, including a certificate documenting the need for such a program in the area, policy and procedure manuals, documentation of compliance with all county, city or tribal ordinances, and a community relations plan addressing community input regarding the proposed location and services. The West Fargo Police Department requested copies of Premier Care's application documents from DHS under open records law. This request was denied by DHS under N.D.C.C. § 50-31-06, the statute that would be amended by the proposed bill.

The way N.D.C.C. § 50-31-06 is currently written, all information obtained by DHS through "inspections" of substance abuse treatment programs is considered

confidential. Under open records law, it is a Class C Felony to knowingly release confidential records. DHS was put in a tough position in trying to interpret what records were protected under the vague use of the term "inspections" so as not to violate open record laws. Arguably, DHS "inspects" all records that come into its possession while licensing and monitoring the treatment programs. This included the application records requested by the police department.

As the Premier Care example illustrates, the current statute is confusing. "Inspections" is not defined in the chapter. The information in the application package did not identify individual patients and was not otherwise highly sensitive. The application materials did not appear to contain any information that needed protection from open records requests. It also appeared convoluted to deny these records because part of the application requires community input, which would require this information be public. It was further concerning that the police department would not have access to records relating to an opioid treatment program in its jurisdiction.

After speaking with the West Fargo Police Department and DHS, it was mutually agreed that a change was needed to the current law. The information DHS really wants to protect is identifiable patient information it may receive. The police department never wanted to receive identifiable patient information, but rather wanted information on the specifics of the program. The amendment in this bill meets these two criteria and strikes a balance between patient privacy and open records. It protects what DHS wants protected, and makes public that which the police department, and really any member of the public, would want to access.

DHS worked with the Office of Attorney General to come up with the proposed language in the bill that will protect this client information DHS may receive while regulating substance abuse treatment programs. Other information regarding the applicant's program and statistical, aggregate, and other general information will be open to the public. This strikes a balance between two very important principles: patient privacy and open records.

#2

3-17-15

Senate Bill 2237
Sixty-fourth Legislative Assembly
Testimony of Mike Reitan, Chief of Police, West Fargo Police Department

Good morning Chairman Weisz, Vice Chair Hofstad and members of the Human Services Committee. My name is Mike Reitan and I am the Chief of Police of the West Fargo Police Department. I respectfully submit my written testimony requesting your support of Senate Bill 2237.

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The City of West Fargo enacted a one year moratorium in October until the city had the opportunity to further investigate the proposed clinic. As part of the investigation I requested copies of documents filed by Premier Care to include the Certification of Need; the Application of License; and the Plan for Community Relations. None of the documents are believed to contain personally protection medical information. DHS refused to provide the requested copies citing NDCC 50-31-06. I filed an appeal with the Attorney General's Office under the Open Records Law. While no official ruling was made, a review of NDCC 50-31-06 found the statute to be unclear in its intent and a recommendation for amendment was made.

Methadone clinics are a unique form of drug treatment and can result in very special conditions existing within the community. The concern is significant enough DHS had included a requirement of the Plan for Community Relations within their Administrative Rules. My request was made for the purpose of preparing my community for the methadone clinic which appeared to soon be opening. Certainly there was the appearance of secrecy between Premier Care and DHS. Had the city been included in the discussions beginning in March the outcome may have been much different. Protecting the application materials filed by Premier Care with DHS serves no useful purpose and is overly broad in the application of NDCC 50-31-06. The amendment before you protects that information that should be protected, the identifiable health information of an individual.

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Michael D Reitan
Chief of Police, West Fargo
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Mike.reitan@westfargond.gov