

2021 JOINT TECHNICAL CORRECTIONS

HB 1511

2021 JOINT STANDING COMMITTEE MINUTES

Technical Corrections Committee Pioneer Room, State Capitol

HB 1511
11/9/2021
PM

A BILL for an Act to create and enact a new section to chapter 34-03 of the North Dakota Century Code, relating to employer-required COVID-19 vaccinations; to amend and reenact section 23-12-20 of the North Dakota Century Code, relating to limitations on requiring documentation of COVID-19 vaccinations, antibodies, and post-transmission recovery status; to repeal section 23-12-20 of the North Dakota Century Code and section 2 of this Act, relating to limitations on requiring documentation of COVID-19 vaccinations, antibodies, and post-transmission recovery status and employer-required COVID-19 vaccinations; and to provide an effective date.

Co-Chair Weisz called the hearing to order, Vice Chair Porter, Representative Dockter, Richter, Louser, O'Brian, Roers Jones, Hanson Co-Chair J. Lee, Vice Chair Patten, Senators H. Anderson, Schaible, Dwyer, Kannianen, Vedaa, Bakke, present [8:17]

Discussion Topics:

- COVID 19 vaccination status and vaccine requirements
- Vaccine opt out provisions
- COVID 19 antibodies immunity and antibody tests
- Personal Protective Equipment
- Medical choice freedom
- COVID 19 staff education
- Vaccine mandates

Representative Robin Weisz introduced the bill [8:18]

Representative Skroch provided testimony in favor and provided an amendment 21.1105.01004 #12223 [8:22]

Representative Ruby provided testimony in favor and provided an amendment 21.1105.01005 on behalf of **Representative Kading** #12222 [8:27]

Representative Luick provided testimony in favor and provided an amendment 21.1105.01003 #12221 [8:32]

Tammy Clark OSHA Credentialed Expert, testified in favor [8:37]

Kristine Megan Kelly, Exposure Scientist, testified in favor [8:52]

Suzanne Welch, Pharmaceutical Representative, provided testimony in favor #12220 [8:56]

Dr. Steve Nagel, Chiropractor testified in favor [9:05]

Brenda Reims, Nurse anesthetist, testified in favor [9:08]

Dr. John Hagen, State Correctional Health Authority, ND Department of Corrections and Rehab, provided testimony in favor #12219 [9:12]

Dr. Nizar Wehbi, North Dakota State Health Officer, ND Health Department, provided testimony in favor #12150 and #12218 [9:18]

Lisa Clute, First Direct Health Unit testified in opposition [9:31]

Tim Blasl, President ND Hospital Association introduced Dr. Chris Meeker and provided testimony #12237 [9:37]

Dr. Chris Meeker, North Dakota Hospital Association and Sanford Health Chief Medical Officer, provided testimony in opposition #12058 [9:38]

Lisa Johnson Vice Chancellor of Academic and Student Affairs for the North Dakota University System provided testimony and an amendment in opposition #12132 and #12133 [9:55]

Shelly Peterson, North Dakota Long Term Care Association provided testimony in opposition #12217 [10:00]

Courtney Koebele, ND Medical Association introduced Dr. Joan Connell [10:03]

Dr. Joan Connell, Executive Director, North Dakota Medical Association provided testimony in opposition #12123 [10:03]

Megan Houn, BCBS of ND provided testimony in opposition and asked for an amendment that they be excluded because BCBS of ND federal contracts. #12204 [10:06]

Additional written testimony:

Jacqueline Muscha submitted testimony in favor #11866

Ron Gibbens, ND Citizen, submitted testimony in favor #11867

Kayla Johnson submitted testimony in favor #11870

Hannah Hauff submitted testimony in favor #11873

Kelsey Miller submitted testimony in favor #11878

Doug Sharbono, Citizen, submitted testimony in favor #11890

Cionda Holter, Walter Korn, Danette Bentle, Jacob Holter, Bridgette Odegard, Lindsay Presteng, Member, ND Conservative Advocates, Jessica Kunz, Member, ND Conservative

Advocates, Lee Duckworth, Jeffery Kunz, Member Health Freedom North Dakota, Kristi Pederson, Season Parlier, Kinsey Albrecht, Leif Pederson submitted testimony in favor #11893, 11897, 11900, 11905, 11941, 11960, 11964, 11972, 11978, 11982, 12014, 12077, 12104 and 12138 respectively.

Melissa Sitton submitted testimony in favor #11910

Erin McSparron, Occupational Therapist, submitted testimony in favor #11912

Scott Grosz submitted testimony in favor #11923

Tanya Watterud submitted testimony in favor #11933

Matt Schramm submitted testimony in favor #11946

Jennifer Kohl Fichtner submitted testimony in favor #11957

Kim Muller submitted testimony in favor #11968

Jocelyn Backman submitted testimony in favor #11986

Michelle Budeau submitted testimony in favor #11994

Gordon Greenstein submitted testimony in favor #11996

Sandra Wade submitted testimony in favor #12003

Sara Williams submitted testimony in favor #12010

Stephanie Hager submitted testimony in favor #12019

Ray Bauer submitted testimony in favor #12022

Terry Peoples submitted testimony in favor #12037

Melissa Gjermundson submitted testimony in favor #12038

Michelle Haley submitted testimony in favor #12042

Jennifer Kadrmas submitted testimony in favor #12045

Scott Whaley submitted testimony in favor #12050

Jenna Bachman submitted testimony in favor #12053

Michae Jurgens submitted testimony in favor #12061

Dionne Haynes submitted testimony in favor #12065

Curtis Kadrmas submitted testimony in favor #12085

Saje Backman submitted testimony in favor #12090

Miki Thompson, Oilfield Revenue Concerns, Constituent of District 37, submitted testimony in favor #12097

Rose Greer submitted testimony in favor #12101

Jordon Manthei submitted testimony in favor #12109

Kay Jarratt submitted testimony in favor #12119

Andrea Leingang submitted testimony in favor #12127

Representative Steiner submitted testimony in favor #12236

Tim Eissinger, CEO, Anne Carlsen Center submitted testimony in Opposition #11863

James Corcoran submitted testimony in Opposition #11868

Kylie Hall submitted testimony in Opposition #11872

Michelle Lingle submitted testimony in Opposition #11885

Carl Young, Executive Director, Family Services Network, Inc. submitted testimony in Opposition #11887

Mark Strand, Professor, Personal submitted testimony in Opposition #11989

Donald Miller submitted testimony in Opposition #12026

Joel Dennis submitted testimony in Opposition #12031

Barbara Frydenlund, Rolette County Public Health District, submitted testimony in Opposition #12033

Brian Ritter, President, Bismarck Mandan Chamber EDC submitted testimony in Opposition #12055

Shaundi Meyer, Information Desk/Switchboard Specialist submitted testimony in Opposition #12080

Steven Weiser, President, Health Policy Consortium/Altru Health Systems submitted testimony in Opposition #12099

Karen Ehrens, Member of Board, North Dakota Public Health Association Governing Board submitted testimony in Opposition #12135

Katherine Mastel, FMWF Chamber, submitted testimony in Opposition #12146

Roberta Nagel submitted testimony in neutral #11990

Amy Dennis submitted testimony in neutral #12048

Sheldon Wolf, Committee Clerk

Testimony in support of amendment 21.1105.01004 to HB 1511 "Employer required vaccines"

Chairman Weisz and members of the Delayed Bills Committee.

I am Representative Kathy Skroch, District 26, Lidgerwood, ND.

I appear before you today to introduce an amendment to HB 1511. The amendment strikes the references to "Covid 19" throughout the bill. This is necessary because by using this term, the effect is to severely narrow the focus of the bill. Using only one term for a specifically named vaccine, "Covid 19", what might result? A redefinition of this term could easily allow a go-around by simply changing the name or definition of a SARS-CoV-2 vaccine. This would negate the intent of the bill and void any protection for citizens of ND this bill might have offered. Citizens then could be forced to receive a vaccine against their wishes through threats of termination, reduction in employment status, fear mongering or through other coercive methods to enforce mandates.

The amendment also strikes the definition of "Covid 19" found on Page 2 in Section 1, sub. 6, lines 27-29 and Section 2, Page 3, Subsection 1, lines 2-4 because the definition for "Covid 19" is no longer needed.

New vaccines are on the horizon whose performance and side effects are not yet known, have not been fully tested over time. Especially experimental and emergency use only vaccinations are of concern because they have not been tested over time for data to be collected. These also have not achieved "gold standard" status. What will these new vaccines be titled? We don't know. That is why a bill with the broader scope that would include these new or future experimental or emergency approved use vaccines is necessary.

QUESTION: Would it be acceptable for an employer to make a request for me to provide other private medical information to secure or maintain employment such as:

Are you currently taking your birth control pills? Are you pregnant? Have you had a vasectomy or have your tubes tied? Do you have HIV or an STD? Are you sexually active? Do you have a history of heart failure, high blood pressure, cancer, diabetes that may impact your job performance? Do you use your CPAP at least 5 hours per day?

The answer to all the above requests is no. My private medical history, vaccination status, medical records, medical decisions and preferences are mine alone and are protected by HIPPA laws, protected as a right of privacy. This bill needs to pass as amended. In doing so, we will protect the medical privacy and medical information of the citizens of North Dakota.

Representative Kathy Skroch, 701-403-0961

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1511

- Page 1, line 2, remove "COVID-19"
- Page 1, line 4, remove "COVID-19"
- Page 1, line 6, remove "COVID-19"
- Page 1, line 7, remove "COVID-19"
- Page 1, line 12, replace "**COVID-19 vaccination**" with "**Vaccination**"
- Page 1, line 19, remove "COVID-19"
- Page 1, line 20, remove "COVID-19"
- Page 1, line 21, remove "COVID-19"
- Page 1, line 22, remove "COVID-19"
- Page 2, line 4, remove "COVID-19"
- Page 2, line 5, remove "COVID-19"
- Page 2, line 6, remove "COVID-19"
- Page 2, line 8, remove "COVID-19"
- Page 2, line 9, remove the first "COVID-19"
- Page 2, line 9, remove the second "COVID-19"
- Page 2, line 26, remove the underscored period
- Page 2, remove lines 27 and 28
- Page 2, line 29, remove "fragments of SARS-CoV-2"
- Page 3, line 1, replace "**COVID-19 vaccination**" with "**Vaccination**"
- Page 3, remove lines 2 through 4
- Page 3, line 5, remove "2."
- Page 3, line 6, remove "against COVID-19"
- Page 3, line 7, replace "a." with "1."
- Page 3, line 7, replace "COVID-19" with "the applicable"
- Page 3, line 10, replace "b." with "2."
- Page 3, line 10, remove "COVID-19"
- Page 3, line 14, replace "c." with "3."
- Page 3, line 16, replace "(1)" with "a."
- Page 3, line 19, replace "(2)" with "b."

Introduced by

Representatives Weisz, Becker, Devlin, Lefor, Meier, Paulson, Porter, Schauer

Senators Lee, Wardner

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to create and enact a new section to chapter 34-03 of the North Dakota
2 Century Code, relating to employer-required ~~COVID-19~~ vaccinations; to amend and reenact
3 section 23-12-20 of the North Dakota Century Code, relating to limitations on requiring
4 documentation of ~~COVID-19~~ vaccinations, antibodies, and post-transmission recovery status; to
5 repeal section 23-12-20 of the North Dakota Century Code and section 2 of this Act, relating to
6 limitations on requiring documentation of ~~COVID-19~~ vaccinations, antibodies, and post-
7 transmission recovery status and employer-required ~~COVID-19~~ vaccinations; and to provide an
8 effective date.

9 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

10 SECTION 1. AMENDMENT. Section 23-12-20 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 ~~23-12-20. Vaccine~~~~COVID-19 vaccination~~Vaccination and infection information.

- 13 1. ~~Except as provided under sections 15-1-23-02, 23-01-05.3, and 23-07-17.1,~~
14 ~~neither~~Neither a state government entity nor any of its political subdivisions, agents, or
15 assigns may:
- 16 a. Require documentation, whether physical or electronic, for the purpose of
17 certifying or otherwise communicating the following before providing access to
18 state property, funds, or services:
- 19 (1) An individual's ~~COVID-19~~ vaccination status;
20 (2) The presence of ~~COVID-19~~ pathogens, antigens, or antibodies; or
21 (3) An individual's ~~COVID-19~~ post-transmission recovery status;
- 22 b. Otherwise publish or share an individual's ~~COVID-19~~ vaccination record or similar
23 health information, except as specifically authorized by the individual or otherwise
24 authorized by statute; or

~~COVID-19 vaccination~~**Vaccination requirements - Exemptions.**

~~1. As used in this section, the term "COVID-19" means severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2.~~

~~2. If an employer in this state requires an employee or prospective employee to be vaccinated against COVID-19 as a condition of employment:~~

~~a.1. The employer shall allow the employee to submit proof of COVID-19~~**the applicable**
antibodies as an exemption to the vaccination requirement. Such proof is valid for
twelve months from the date of the antibody test.

~~b.2. The employer shall allow the employee to submit to periodic COVID-19 tests as an~~
~~exemption to the vaccination requirement. Under this subdivision, the employer may~~
~~not require more than two tests per week but the employee may be responsible for the~~
~~cost of the testing.~~

~~c.3. The employer shall allow the employee to submit one of the following certificates as an~~
~~exemption to the vaccination requirement:~~

~~(1)a. A certificate from a licensed physician stating the physical condition of the~~
~~employee is such that immunization would endanger the life or health of the~~
~~employee; or~~

~~(2)b. A certificate signed by the employee stating the employee's religious,~~
~~philosophical, or moral beliefs are opposed to such immunization.~~

SECTION 3. REPEAL. Section 23-12-20 of the North Dakota Century Code and section 2
of this Act are repealed.

SECTION 4. EFFECTIVE DATE. Section 3 of this Act becomes effective August 1, 2023.
The remainder of this Act becomes effective upon its filing with the secretary of state.

from that nonunion employee. Actual representation expenses may be assessed only in instances in which a nonunion employee has specifically requested in writing to use representation by the labor union or labor organization. A nonunion employee may not be compelled to pay any expenses incurred by a labor union or labor organization in the course of general contract negotiations or collective bargaining. An assessment under this section is not an abridgement of any rights guaranteed under section 34-01-14. This section does not abridge or in any way interfere with rights guaranteed employees generally under the Labor Management Reporting and Disclosure Act of 1959 [29 U.S.C. 401 et seq.].

34-01-15. Employer to pay for medical examination - Penalty for violation.

Whenever an employer requires an employee, or prospective employee, to take a medical examination, or furnish any medical records, as a condition of retaining or obtaining employment, the employer shall bear the cost of the examination or the furnishing of the medical records. For purposes of this section, medical examination includes any test for the presence of drugs or alcohol. An employer violating any of the provisions of this section is guilty of an infraction.

34-01-15.1. Paid family leave - Political subdivision prohibition.

1. As used in this section:
 - a. "Employee" means an individual employed in this state by an employer.
 - b. "Employer" means a person that does business in this state. The term does not include a public employer.
 - c. "Paid family leave" includes employment benefits for an employee to take time off work to care for an ill family member or to bond with a new child entering the family.
 - d. "Public employer" means the state and each political subdivision of the state.
2. A political subdivision may not adopt or enforce an ordinance that requires an employer to provide to an employee paid family leave that exceeds the requirements of federal or state laws and rules.

34-01-16. Qualifications to hold office in labor union or labor organization.

No person who has been convicted of any crime involving moral turpitude or a felony, excepting traffic violations, may serve in any official capacity or as any officer in any labor union or labor organization in this state. No such person, nor any labor union or labor organization in which the person is an officer, is qualified to act as a bargaining agent or representative for employees in this state. Such disqualification terminates whenever such officer is removed or resigns as an officer in such labor union or labor organization.

34-01-17. Unlawful to discriminate because of age - Penalty.

No person carrying on or conducting within this state any business requiring employees may refuse to hire, employ, or license, or may bar or discharge from employment, any individual solely upon the ground of age; when the reasonable demands of the position do not require an age distinction; and, provided that such individual is well versed in the line of business carried on by such person, and is qualified physically, mentally, and by training and experience to satisfactorily perform the duties assigned to the person or for which the person applies. Nothing herein affects the retirement policy or system of any employer if such policy or system is not merely a subterfuge to evade the purposes of this section. Any person who violates any of the provisions of this section is guilty of a class B misdemeanor.

34-01-18. Discrimination against women jockeys prohibited - Penalty for violation.

Repealed by S.L. 1975, ch. 106, § 673.

34-01-19. Employment discrimination - Declaration of policy - Limitation of actions - Court jurisdiction.

Repealed by S.L. 1983, ch. 173, § 22.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1511

Page 3, line 7, after "employee" insert "or prospective employee"

Page 3, line 10, after "employee" insert "or prospective employee"

Page 3, line 12, remove "but the employee may"

Page 3, line 13, remove "be responsible for the cost of the testing"

Page 3, line 14, after "employee" insert "or prospective employee"

Page 3, line 17, after "employee" insert "or prospective employee"

Page 3, line 18, after "employee" insert "or prospective employee"

Page 3, line 19, after "employee" insert "or prospective employee"

Page 3, line 19, after "employee's" insert "or prospective employee's"

Renumber accordingly

21.1105.01003
Title.

Prepared by the Legislative Council staff for
Senator Luick

November 9, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1511

Page 2, line 22, overstrike "This section"

Page 2, line 23, remove "does not apply to the"

Page 2, remove lines 24 through 26

Page 2, line 27, remove "6."

Renumber accordingly

WHAT YOUR DR MAY NOT KNOW

The Covid 19 (vaccines) are different from all other vaccines previously on the market.

All previous vaccines were either a dead virus, a part of a dead virus, or a weaken virus.

The Covid 19 (vaccines are likely mRNA viral based gene therapy. Pfizer phase 1 studies were conducted as if it was a viral gene based therapy.

All US Covid 19 vaccines are mRNA viral gene based therapy (vaccine) and have been released due to Emergency Authorization Act

Under the Emergency Use Authorization act (the ^{Prep}Popper and the Cures act)

manufactures can do the following:

- 1) Waive all good manufacturing practices IE no inspections of what is in the vials

Under the EAU the manufacturers are NOT obligated to tell you what is in it

UNDER THE CURES ACT SECTION 3024 Dec 13, 2016

DO NOT HAVE TO PROVIDE A WAIVER OF CONSENT IF IT IS CONTRARY TO THE INTEREST OF SUCH HUMAN BEINGS

(SO ITS LEGAL FOR THE GOVERNMENT TO INJECT YOU WITH SOMETHING THAT CAN KILL YOU

LOOK IT UP

- 2) A pharmaceutical company can stockpile product before approval (never seen this before)
- 3) Manufactures **Do NOT have to prove efficacy** all they have to say is that it **COULD** be effective
- 4) Manufacturers **do not have to do animal trials, they can go straight to humans (a violation of the Nuremberg code.**
- 5) All damages created by the vaccines to patients are the patient's responsibility, manufactures and employers have NO liability

The Emergency Use Authorization Act of mRNA viral based gene therapy (vaccines) have not been evaluated like other viral gene therapies.

Normally viral based gene therapies undergo testing for the following:

- 1) Progeny (antibody enhancement) (where the body can attack itself causing autoimmune diseases). That is why the animal studies are so critical because it takes about 2 years in animal studies to prove that this cannot happen) The FDA originally came out and said the soonest they would consider approval is 2023

- 2) Shedding the transmission of the spike protein to the unvaccinated (these trials typically require male subjects that are in contact via skin contact or breath contact to make sure that it doesn't pass to unvaccinated people and pregnant mothers. This was followed in Pfizer phase 1 study only

Therefore none of the vaccines on the US market have this data and are not obligated to prove anything until the drug is fully approved

Comirnaty, If it is FDA fully approved, should have a full package insert that describes what exactly what is in the vial. Do not let someone tell you it is the same thing as the Pfizer/Biontec. If the vial says Comirnaty there may be some liability for damages consult a lawyer before taking the risk.

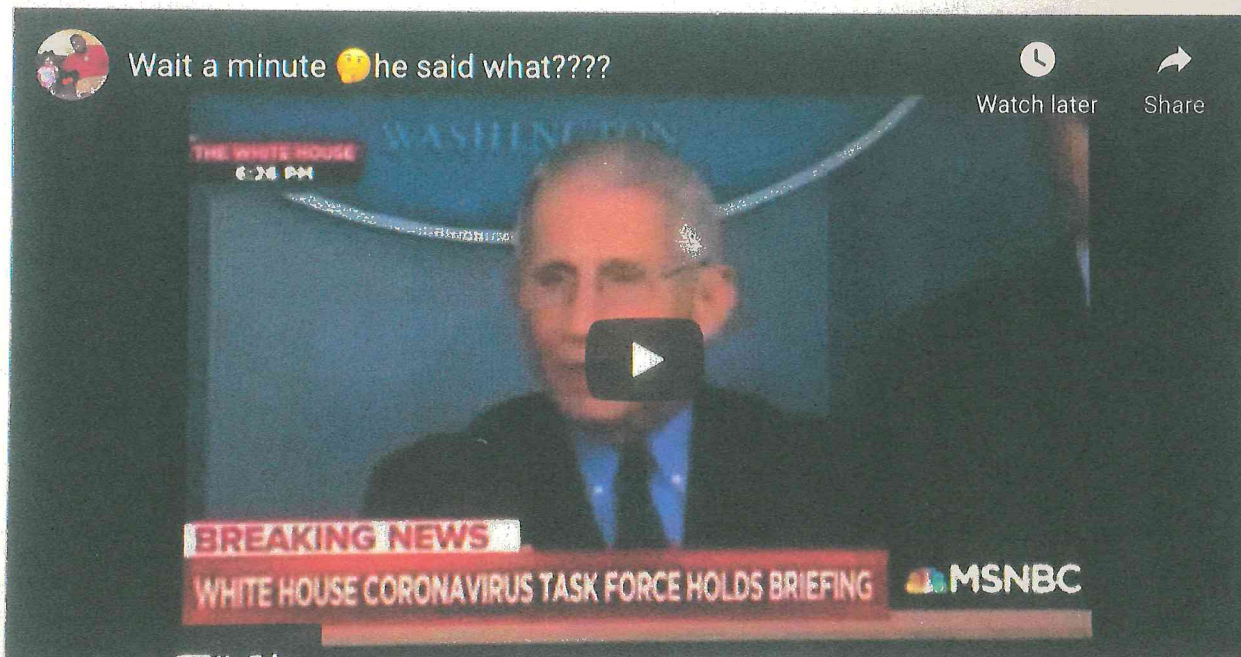
If it isn't fully approved and remains under Emergency use authorization then patient takes on all injury costs.

CITIZEN FREE PRESS

Fauci finally mentions Vaccine risk for ADE...

Posted by Kane on September 3, 2021 5:03 am

[NEWS JUNKIES -- CHECK OUT OUR HOMEPAGE](#)



Watch on YouTube

November 9, 2021

Joint Technical Committee
Sixty-seventh Legislative Assembly of North Dakota
Bismarck, North Dakota

RE: TESTIMONY REGARDING HOUSE BILL 1511

Chairpersons Lee and Weisz:

My name is John Hagan. I am a physician with the ND DOCR and I serve as the State Correctional Health Authority. I stand today to offer testimony regarding HOUSE BILL 1511. I offer this information for your consideration.

- The DOCR accepts 120 admissions monthly from county jails and from the community. Prior COVID test results and current vaccination information are essential in determining whether these individuals need to be quarantined or isolated upon arrival, particularly during a COVID outbreak.
- Testing prior to transferring these individuals to contract facilities and other correctional facilities informs our community partners about appropriate precautions they may need to take for our residents upon arrival at their facilities.
- Our COVID mitigation program is designed in accordance with CDC guidelines for correctional facilities and have been reviewed and approved by CDC and State Department of Health.
- We currently test our residents and staff on a frequent basis. We DO NOT require vaccination of our residents or staff, and we do not charge residents or staff for testing. Our current aggressive program of frequent testing, rapid isolation, contact tracing, and quarantine has allowed us to mitigate COVID infections in our system. As a result, we have not admitted any residents to local hospitals despite more than 150 COVID Infections in the past 6 weeks alone. Limiting our ability to test and to request testing and vaccination status information will dismantle this effective program and will almost certainly lead to inmates needing to utilize hospital beds and resources out in the community.
- Transporting residents to hospitals in the community not only uses up community resources but also can present public safety risks.
- DOCR requests your consideration of the addition of language in section 1 to exempt DOCR facilities, contracted facilities, and county correctional facilities that transfer resident into our care. This will allow us to continue to gather and use important health information to keep our residents, staff, and the community safe.
- The DOCR would support a language change in Section 2b to keep the cap on testing frequency at 2 per week if an employee is required to pay for those tests.



John J. Hagan, M.D.
State Correctional Health Authority

Good morning, Chairmen Weisz and Lee and members of the Joint Technical Corrections Committee. My name is Dr. Nizar Wehbi and I am the North Dakota State Health Officer. I am here to provide information on House Bill 1511.

Overall, the bill limits the ability for businesses, group homes, universities, sports teams, correctional facilities, and the health care industry to choose to offer the safest work environment for its employees and the safest environment for customers, students, residents and patients.

The bill eliminates three basic tools used to reduce the risk of disease transmission, especially in health care settings. These are:

1. The ability to assess vaccination status
2. The ability to assess or test for immune status
3. The ability to assess post-recovery status

Although this bill specifies these three tools cannot be used specifically to assess COVID-19 status, it needs to be recognized that these tools are basic preventive health principles that form the basis for policies that are used routinely for diseases such as hepatitis B, tuberculosis, influenza and others.

Both vaccination and natural infection result in immunity for most people. However, the duration of this immunity is not completely understood. Immunity after infection may vary with age, health status, severity of infection and time since infection. Antibody testing cannot be used to determine immunity, whether or not the immunity is due to natural infection or vaccination. The following should be kept in mind when it comes to antibody testing¹:

1. We don't yet know what level of antibodies is needed to protect against COVID-19 infection.

¹ [Science Brief: SARS-CoV-2 Infection-induced and Vaccine-induced Immunity | CDC](#)

2. Results from these tests cannot be used to determine immunity to infection with SARS-CoV-2, including potential future variants of the virus.
3. These tests cannot be used to diagnose a current infection and can cross react with antibodies to other human coronavirus. Four of these other coronaviruses circulate throughout the world and usually cause mild, cold-like illnesses.
4. Receiving the COVID-19 vaccine may cause the test to be positive.
5. Not all people produce detectable antibodies after infection and some people may experience faster declines in antibody levels leading to negative test results².
6. Testing months after infection may lead to positive antibody results, but does not mean the individual is protected for another 12 months.

The U.S. Food and Drug Administration, the Centers for Disease Control and Prevention, and the Infectious Disease Society of America are all in agreement that antibody testing should not be used to determine immunity to SARS-CoV-2 infections.

People who were previously infected are recommended to be vaccinated 90 days after their infection to ensure they are protected. A study out of Kentucky found that people who were vaccinated after infection were 2.34 times less likely to be reinfected³. Among U.S. adults hospitalized with symptoms similar to COVID-19, unvaccinated people who had COVID-19 recently were 5 times more likely to test positive for COVID-19 than people who were recently fully vaccinated.⁴

The other specific area I would like to address deals with testing frequency. The bill currently restricts testing by employers to a maximum of twice per week. Testing employees can be used to detect infections early and keep infected employees from coming to the workplace. However, people with

² [Predictors of Nonseroconversion after SARS-CoV-2 Infection - Volume 27, Number 9—September 2021 - Emerging Infectious Diseases journal - CDC](#)

³ [Reduced Risk of Reinfection with SARS-CoV-2 After COVID-19 Vaccination — Kentucky, May–June 2021 | MMWR \(cdc.gov\)](#)

⁴ [Laboratory-Confirmed COVID-19 Among Adults Hospitalized with COVID-19–Like Illness with Infection-Induced or mRNA Vaccine-Induced SARS-CoV-2 Immunity — Nine States, January–September 2021 | MMWR \(cdc.gov\)](#)

COVID-19 are infectious before symptoms start. Frequent testing is the best way to consistently detect infections early. Businesses and health care employers should have the ability to implement testing that best works for them to keep staff, customers, residents or patients as safe as possible. For example, if an employee is tested twice in one week, say on Monday and Wednesday, then develops symptoms at work Wednesday afternoon, now the employer would not be able to test the employee, because that employee has already been tested twice.

In conclusion, this bill limits the ability of business, including long term care facilities, congregate care facilities, universities, sports teams, corrections, and health care facilities to operate in a manner that maximizes the safety of patients, residents, staff, and health care providers. Parts of the bill are very restrictive as we learn new information about the disease. When testing is an option, that testing should not be limited but be done in a manner that keeps workplaces as safe as possible.

The SARS-CoV-2 virus is still evolving, and we still have much to learn about it. The unknowns associated with new virus variants and the inability to accurately predict transmission in our population warrant a cautious approach. We need to be able to respond, if needed, to increasing cases, increasing severity of disease or the ability of the virus to escape either vaccine induced or natural immunity.

I would be happy to answer questions at this time.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1511

Page 2, after line 26, insert:

“6. This section does not apply to the department of corrections and rehabilitation, any entity providing contract housing for the department of corrections and rehabilitation, or any correctional facility as defined by subsection 12-44.1-01(3) of the North Dakota Century Code.”

Page 3, line 8, after requirement insert:

“, as long as antibodies are at a level that is medically proven to protect from COVID infection”

Page 3, line 8, replace “twelve” with “three”

Page 3, line 12, replace “but” with “if”

Page 3, line 12, replace “employee may” with “employee is”

Page 3, line 13, remove “be”

Renumber accordingly

OPPOSE EFFORTS TO TIE HEALTH CARE'S HANDS

COVID-19 Vaccines: Vote NO on State Control of Private Business

We are at Capacity

- Health care in North Dakota is stretched to its limits.
- The pandemic has had a punishing effect on the health care system and the health care heroes who take care of some of our state's most vulnerable people every day across the state.
- Health care is already one of the most regulated industries, and the state should not further regulate the industry and take away critical tools, like requiring vaccines, when the lives and livelihoods of North Dakota patients are at stake.

Respect for Employees with Concerns

- As several health care providers across the state have implemented vaccine mandates for their employees, this has been done with the utmost consideration for the health and safety of those employees and patients served.
- Mandating vaccines has been considered carefully along with individual rights.
- Exemptions for religious and medical reasons have been thoughtfully respected.
- To protect our staff and the patients we serve, we continue to use every available tool known to prevent the spread of the virus that causes COVID-19 including wearing masks and visitor restrictions.

Trust Medical Providers

- Medical leaders know how best to take care of individuals who are sick.
- A hospital or clinic is not a big box store or manufacturer. It is a place of treatment and healing.

Compromising Our Patient's Access to Medicare and Medicaid

- Well over half of our patients are covered by Medicare and Medicaid.
- Amidst federal mandates requiring vaccines, a state law conflicting with these federal mandates puts health care in the lurch, having to comply with conflicting state and federal laws.
- Who could this hurt? North Dakota patients who rely on those programs to access health care.

Keep Patients and Employees Safe

- Vaccination requirements for health care providers and staff are not new.
- Hospitals have long required vaccinations for measles, mumps, rubella, chicken pox and influenza with remarkable impact on staff and patient safety.
- As is the COVID-19 vaccine, these immunizations are well-researched, safe and provide extensive protection from the greater risk of illness.

North Dakota Hospital Association
North Dakota Medical Association
Health Policy Consortium
Anne Carlsen Center
American Academy of Pediatrics –
North Dakota Chapter
Altru Health System
Ashley Medical Center
Cavalier County Memorial Hospital
CHI Lisbon Health
CHI Mercy Health
CHI Oakes Hospital
CHI St. Alexius Health
CHI St. Alexius Health Carrington
Medical Center
CHI St. Alexius Health Community
Memorial Hospital
CHI St. Alexius Health Devils Lake
Hospital
CHI St. Alexius Health Dickinson Medical
Center
CHI St. Alexius Health Garrison
Memorial Hospital
CHI St. Alexius Health Williston Medical
Center
Cooperstown Medical Center
Essentia Health
Fargo VA Health Care System
First Care Health Center
Heart of America Medical Center

Jacobson Memorial Hospital
Jamestown Regional Medical Center
Linton Hospital
McKenzie County Healthcare Systems
Mountrail County Medical Center
ND State Hospital
Nelson County Health System
Northwood Deaconess Health Center
Pembina County Memorial Hospital
Prairie St John's
SMP Health - St. Kateri
Quentin Burdick Memorial Healthcare
Facility
Sakakawea Medical Center
Sanford Hillsboro Medical Center
Sanford Mayville Medical Center
Sanford Medical Center
Sanford Medical Center Bismarck
South Central Health
Southwest Healthcare Services
St Luke's Medical Center
SMP Health - St. Aloisius
SMP Health - St. Andrew's
Tioga Medical Center
Towner County Medical Center
Unity Medical Center
Vibra Hospital of Fargo
Vibra Hospital of the Central Dakotas
West River Regional Medical Center



Vision

The North Dakota Hospital Association will take an active leadership role in major Healthcare issues.

Mission

The North Dakota Hospital Association exists to advance the health status of persons served by the membership.

2021 House Bill No. 1511

Joint Technical Corrections Committee

Representative Robin Weisz and Senator Judy Lee, Chairmen

November 9, 2021

Chairmen Weisz and Lee and members of the Joint Technical Corrections Committee, I am Chris Meeker. I am a board-certified emergency physician and I serve as chief medical officer at Sanford Health Bismarck. I am here to testify on behalf of the North Dakota Hospital Association in opposition to House Bill 1511. I respectfully ask that you give this bill a **Do Not Pass** recommendation.

“Real liberty for all could not exist under the operation of a principle which recognizes the right of each individual person to use his own, whether in respect of his person or his property, regardless of the injury that may be done to others.”

Justice John Marshall Harlan

Jacobson v. Massachusetts, 197 US 11 (1905)

This bill would take away the ability of hospitals to require staff be vaccinated against SARS-CoV-2 and seriously impair the ability of health care providers to protect their patients and employees. We know at Sanford Health that 9 out of 10 people hospitalized are unvaccinated; 19 out of 20 in an intensive care unit are unvaccinated, and 98 out of 100 on ventilators are unvaccinated. Studies show that unvaccinated people are 5 times more likely to acquire COVID, 10 times more likely to be hospitalized, and 11 times more likely to die than their vaccinated peers. The vaccinated do not contract and transmit at the same rate as unvaccinated. Studies vary, but the mRNA vaccines have maintained around 70% effectiveness against mild disease. That means, in a given population over a given time, there will be a 70% reduction in transmission of the Sars-CoV-2 virus. Boosters show a return of effectiveness into the 90s.

PO Box 7340, Bismarck, ND 58507-7340 Phone 701-224-9732 Fax 701 224-9529

Vaccinated people may acquire and spread the virus, but only for an average of 3 to 5 days versus 7 to 10 days for unvaccinated people. With more than 750,000 people dead and counting, health care providers must be part of the solution and be able to protect their patients, employees, and communities.

An analysis of records from Florida, California, and Medicare patients in all states in 2020 showed more than 10,000 cases of hospital acquired COVID. From April to September, 2020, 21% of people with hospital-acquired COVID died. This context explains why exceptions to vaccination contained in the bill are so problematic in that they do not sufficiently protect patients. Sanford Bismarck has experienced employee to employee transmission. In fact, we've had more employees out at one time with COVID than failed to comply with our vaccine mandate. Outbreaks occurred in department clusters, indicating employees acquired it from other employees. Our goal in healthcare is to cause zero harm – which includes healthcare-acquired, vaccine-preventable diseases. We've seen significant progress in the reduction of healthcare acquired conditions, including infectious diseases and we believe vaccines are integral to patient and staff safety. It's imperative that healthcare organizations and clinicians are free to follow best practices as driven by science unrestricted by regulations that do not put patient safety first.

We have specific concerns with two portions of the bill. First is the provision in Section 1 that prohibits a private business located in this state from requiring a patron or customer to provide documentation certifying COVID-19 vaccination, the presence of COVID-19 pathogens, antigens, or antibodies, or COVID-19 post-transmission recovery to gain access to, entry upon, or services from the business. If this language is passed, would a physician be prohibited from asking a patient if he or she has been vaccinated against COVID-19 when having a routine discussion about vaccinations? Would a physician be allowed to ask the patient, for example, if she would like to receive an influenza, shingles, or tetanus shot but not discuss COVID-19 vaccination status?

Our main concern, however, is with the prohibition in Section 2 which would restrict a business from requiring any of its employees to be vaccinated against COVID-19 unless certain exemptions are allowed. Individual businesses should have a right to choose if or what mandates are best for their business. Health care providers especially should be free to determine without state interference the best way to protect the health of their patients and

employees. Hospitals and health care workers have a shared responsibility to prevent occupationally acquired infections and avoid causing harm to patients. Vaccinations aren't always strictly for patient safety – they also protect the health care worker. Healthcare workers are at risk for exposure to serious, and sometimes deadly, diseases. If they work directly with patients or handle material that could spread infection, they should take appropriate steps to reduce the chance that they will get or spread diseases.

Vaccine mandates aren't new to health care facilities. Hospitals have long required employees to be vaccinated against a number of infectious diseases such as influenza, measles, mumps, and polio. We have always offered exemptions for those with sincerely held religious beliefs and for those who are medically unable to be vaccinated. Those who can be vaccinated but refuse should be free to do so, but they do not have a right to work in a health care setting if that's what they choose.

The exceptions will require an employer to allow an employee to forego vaccination if the employee submits proof of COVID-19 antibodies and that proof has to be accepted for 12 months from the date of the antibody test. This is very concerning because scientists do not yet know the level of antibodies needed to provide protection from COVID-19. Both the federal Centers for Disease Control and Prevention and the Food and Drug Administration advise against using antibody tests to determine one's level of immunity against COVID-19. So does the Infectious Disease Society of America, which represents infectious disease specialists. New research also shows that up to 36% of people who test positive for COVID will not have antibodies on subsequent testing. Our relatively short experience with COVID-19 means we do not yet know what value means immunity. Without knowing what level of antibodies provides immunity or the parameters—especially the timing—of testing people, such a measure may not provide the protection suggested. We may someday know what level of antibodies correlates with fewer hospitalizations and deaths, but we are not there yet.

The bill will also allow an exception to vaccination if an employee gets periodic COVID-19 tests. We know from experience in health care settings such as long-term care that periodic COVID-19 testing is not as protective against the spread of infection as is vaccination. Mass testing of employees also places a burden on staff for collection and processing of specimens, time better spent on patient care. The bill provides additional exceptions for “philosophical” and “moral” beliefs. As already noted, hospitals already provide medical and religious exemptions. Allowing

additional exceptions for “philosophical” and “moral” beliefs would gut a vaccination requirement and allow anyone who simply does not want to be vaccinated to claim such beliefs. A mandate with a philosophical exemption is not a mandate. Health care providers should have the right to decide the best way to protect their patients and employees from infectious diseases based on current scientific data. Employees have the right to choose to work in a different setting if they do not agree with an employer's vaccination requirements.

We believe this bill would also put health care providers in a legal quandary – violate the federal requirement that all health care workers be vaccinated or violate state law. The federal rule requiring COVID-19 vaccination for all eligible employees at health care facilities that participate in Medicare and Medicaid was released last week. Under that regulation, health care workers must be vaccinated by January 4. Only employees who qualify for a medical or sincerely held religious belief exemption may skip the immunization. There are no exceptions for testing in lieu of vaccination. Nor are there exceptions for “philosophical” or “moral” objections.

Health care providers who do not comply may be subject to civil monetary penalties, denial of payment for new admissions, or termination of their Medicare/Medicaid participation. To be clear, the implications of a hospital losing Medicare/Medicaid eligibility would be devastating. More than 60 percent of hospital services in North Dakota are paid for by Medicare and Medicaid.

In summary, this bill would have too many negative consequences for health care providers. And that is why we oppose the bill and ask that you give it a Do Not Pass recommendation. I would be happy to respond to any questions you may have. Thank you.

Respectfully Submitted,

Chris Meeker, M.D.
Chief Medical Officer
Sanford Health Bismarck
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701-323-2601 (office)
701-226-1461 (mobile)

**H. B. 1511**

Joint Technical Corrections Committee

November 9, 2021

Lisa A. Johnson, Vice Chancellor of Academic & Student Affairs, NDUS
701.328.4143 | lisa.a.johnson@ndus.edu

Chairs Representative Weisz and Senator Lee and members of the Joint Technical Corrections Committee. My name is Lisa Johnson, and I serve as the Vice Chancellor of Academic and Student Affairs for the North Dakota University System. I am here today on behalf of the University System (but not the State Board of Higher Education, which has not taken a position on this proposed legislation).

To date, the North Dakota University System believes it has successfully navigated the COVID 19 pandemic—permitting campuses to adapt to the changing risk levels in their respective communities using evidence-based practices to mitigate the spread of the virus.

Among the roughly 50,000 members of our academic community are individuals who are immune compromised, individuals with close family members that cannot be vaccinated or have underlying health conditions that place them at severe risk, and now, at times, those who have suffered from break through cases of the Delta variant.

Our students have been very clear that they have appreciated the NDUS' efforts to quickly return to in-person instruction while providing online or hybrid accessibility to students who are unable to attend in person. That could not have been accomplished without your foresight from earlier this year and the current exemption provided by the legislature that permitted us to responsibly use self-reported student, faculty, and staff data that enabled us to return to in-person instruction as quickly as possible. This was largely accomplished using self-reported data in addition to basic safety protocols like masks, social distancing, smaller class sizes and improved air handling systems. Without these approaches, we would not have been able to stop the spread without closing campuses entirely or a modified virtual model of instruction. Because of the exemption provided by you to responsibly use available data that included self-reported vaccine status, test results, and recovery data, we have been able to maintain the safest possible instructional spaces, common areas, and residence halls.

Ultimately, the exemption you have provided to date has afforded students the ability to make an informed choice. Using data available to them, students can make the

choice to be vaccinated, the choice to remain unvaccinated and to take advantage of regular testing, or for those who live on campus, the ability to quarantine to prevent the spread of the virus should they contract the virus or come in close contact with someone with the virus.

Today the North Dakota University System respectfully requests that the committee recommend retaining Section 1, Subsection 4 of H.B. 1511 (lines 15-19 on page 2), which will permit the State Board of Higher Education and its institutions to continue to responsibly use such data to mitigate the negative effects of COVID 19 and any subsequent variations of the virus. Removing the current exemption reduces the campuses' ability to utilize self-reported data to mitigate the spread of COVID 19.

The NDUS is unlike other public entities affected by this legislation because one-fourth to one-third of the students at some NDUS institutions reside on campus, which adds up to between 10,000 and 11,000 students. In addition to being in close contact with others in classrooms, laboratories, and common areas during the day, these students live on the premises—using cafeterias, fitness centers, libraries, and other common spaces. The NDUS and its institution have a responsibility to attend to the health and safety of our students and the greater campus community through the course of this pandemic through the use of reasonable, evidence-based procedures.

The NDUS respectfully requests your continued support for its ability to mitigate the spread of COVID-19 on campus, including by endorsing the exemption in Section 1, Subsection 4 of H.B. 1511.

This concludes my testimony related to H.B. 1511, I stand for questions from Committee members.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1511

Page 2, line 15-19, remove the overstrike over “~~Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the circumstances under which such documentation may be shared, and exemptions from providing such documentation.~~”

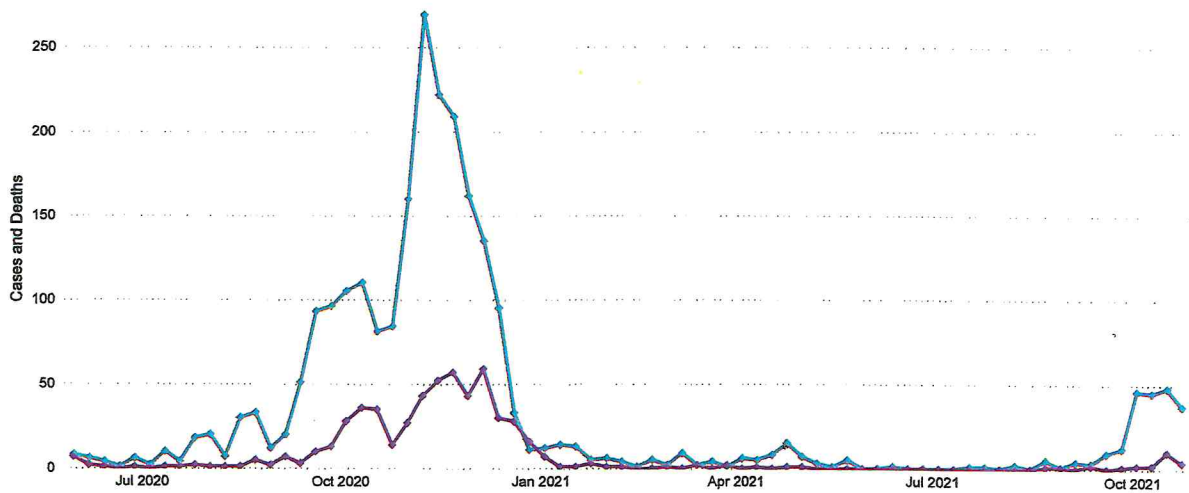
Renumber accordingly

COVID-19 Among Nursing Home Residents

State	Timeframe	Cases	Deaths	Estimated Recoveries
ND	<input checked="" type="checkbox"/> Select all <input checked="" type="checkbox"/> Before Vaccines <input checked="" type="checkbox"/> After LTC Vaccine Clinics Began (12/18/20)	2,542	599	1,761

Trend of New Cases and Deaths

◆ New Resident Cases ◆ New Resident Deaths



Data Through: Week ending Oct 24, 2021 (*Latest week's data is preliminary and represents fewer nursing homes than other weeks)

Source: NHSN Notes: May 24, 2020 includes collective historic data. It is excluded from the graph since it does not capture that specific week, but included in the total value at the top. Estimated recoveries made using a 3-week disease period using NHSN cases and deaths.

Microsoft Power BI

Note: The data begins at the end of May 2020 because nursing homes began weekly reporting to the federal government in mid-May 2020. Data prior to May 2020 be found by contacting state health departments. Visit the [CMS website](#) for more information.



Joint Technical Corrections Committee

HB 1511

November 9, 2021

Chair Lee, Chairman Weisz and Committee Members, my name is Joan Connell. I am a pediatrician in Bismarck and I'm president of the North Dakota Medical Association's 6th District Medical Society. I present this testimony on behalf of the North Dakota Medical Association. The North Dakota Medical Association is the professional membership organization for North Dakota physicians, residents, and medical students.

NDMA opposes this bill based on three main issues, and requests there be an exemption for health care in the bill.

First, lines 10-11 on page 2 should not be crossed out. The exemption for health care providers is incredibly important during times of crisis. It was placed there last session based on the request of health care providers and should remain in law. Hospitals, clinics, and nursing homes take care of the sickest and oldest people, and the requirements regarding COVID-19 vaccination are essential there. Right now, hospitals and clinics do not ask about vaccination status, but at some point, during this pandemic it may become an issue. They should not be prohibited from asking for documentation in case the need arises.

Second, the federal exemption language is unclear. Direct financial losses shouldn't need to be proved if a health care provider is under a federal mandate. Late last week CMS issued details on the emergency regulation requiring COVID-19 vaccination for health workers. The regulation covers what most people would consider traditional health care settings, including long term care. Among the information distributed, it is CMS opinion that under the Supremacy Clause of the U.S. Constitution, this regulation pre-empts any state law to the contrary. U.S. Const. art. VI § 2.

This CMS regulation is not being challenged at this time, so federal rulings and lawsuits against the Executive Order on Ensuring Adequate COVID Safety Protocols for Federal Contractors or the OSHA COVID-19 Healthcare Emergency Temporary Standard do not apply. If a facility takes Medicaid or Medicare – which is a large majority in our state – this regulation applies. We would suggest exemption language in the bill deferring to those federal requirements.

Third, Section 2 of the bill, the exemption for vaccine mandates isn't accurate or supported by the evidence. Right now, hospitals requiring a vaccine mandate are offering two exemptions – medical and religious. And both of those are being generously granted. These two exemptions are what is required under federal law and what will be offered for those under the mandate. We would also suggest that federal pre-emption language be placed in section 2 of the bill, because if subject to the federal regulation, the entities must offer only those two exemptions, and not those contained in the bill.

The two times a week testing option isn't practical, in that COVID-19 tests are hard to come by, and the staff to administer the tests are not available. Further, currently there is no clear evidence to support using antibody testing as a safe alternative to vaccination. We have known since summer 2020 that antibody testing is not reliable due to the high number of false positives. Putting this into legislation would force companies or individuals to pay for something that is not useful and not protective. Based on what we know now, COVID-19 infection provides some protection against reinfection, but we do not know the durability of protection nor the level of protection. When testing for natural antibodies, the presence of antibodies does not necessarily mean one is immune, and the absence of antibodies does not mean an individual has no immunity. It would not be wise to put into statute the twelve months exemption from immunization when it isn't supported by any science and the actual data to prove immunity is not established.

While federal law will supersede state law in many instances for COVID-19 vaccine mandates, individual businesses not impacted by federal mandates should have a right to choose if or what mandates are best for their

business, and state government should not interfere. NDMA requests for a DO NOT PASS recommendation on this bill.

Thank you for the opportunity to testify today. I would be happy to answer any questions.

Joan Connell, MD MPH FAAP

701-425-2067

jmconnell@msn.com

November 9, 2021

RE: HB 1511 and Inclusion of Federal Contractor Exemption

Members of the Joint Technical Corrections Committee:

We are writing to provide input on North Dakota HB 1511 and request the insertion of language that allows federal contractors to be exempt from the impact of HB 1511.

Blue Cross Blue Shield of North Dakota (BCBSND), headquartered in Fargo, includes nine offices across the State of North Dakota, with over 900 employees. BCBSND is a federal contractor providing health coverage for federal employees.

Noridian Healthcare Solutions, also headquartered in Fargo, ND, is a wholly owned subsidiary of BCBSND and employs over 1,750 staff – more than 1,000 of whom are in North Dakota. Noridian receives over 95% of our \$300M annual revenue from federal government contracts and has supported the Medicare program since its inception in 1966.

As contractors to the federal government, BCBSND and Noridian are required to follow the COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors (issued September 24, 2021) released by the Safer Federal Workforce Task Force under direction of Executive Order 14042 and signed September 9, 2021. This guidance instructs all federal contractors to require staff to be vaccinated, except for those who request and receive a medical or religious accommodation.

Failure by BCBSND and Noridian to comply with Federal law may be deemed a breach of contract, which would allow the federal government to terminate these contracts for cause. In Noridian's case it would result in the loss of employment for nearly all employees. The loss of federal government contracts would be catastrophic to Noridian and not something from which the organization could recover.

We respectfully request clear language allowing federal contracts to be exempt from HB 1511. Without that amendment, BCBSND, Noridian, and other North Dakota private businesses with federal contracts, will face a no-win decision about which requirements to comply with, federal or state, and thereby decidedly violate the other.

Respectfully submitted,

Dan Conrad, President and CEO, BCBSND

Jon Bogenreif, CEO-elect, Noridian

PROPRIETARY AND CONFIDENTIAL. This document contains information that is proprietary, confidential, and/or a trade secret. Disclosure or unauthorized use of this document or any information in this document is not permitted without prior written consent of Noridian Healthcare Solutions, LLC.

Delivering solutions that put people first.

11866

Forcing a medical experiment upon an individual as a condition to participate in society is illegal, unlawful and immoral and reprehensible and it is a violation of our God-given, Natural, and Common Law rights, as expressed and confirmed in the American Declaration of Independence, and as reflected in the constitution of this state and the constitution of the United States.

It doesn't matter whether vaccines work or not.

It doesn't matter whether this is even a vaccine or not.

What matters is that each individual has sovereignty and authority over their own body.

Forced vaccination violates the right to privacy, which is protected, secured and guaranteed by the 4th Amendment of the US and the constitution of this state.

I am concerned for the citizens of North Dakota.

I am concerned for my children.

I am in favor of prohibiting vaccine mandates.

I completely oppose vaccine mandates due to religious and moral reasons.

Mandates are a complete infringement on one's personal freedom and liberties as protected by the Bill of Rights.

There is absolutely no reason for the government to mandate any medical treatment against any person's wish. Especially when the survivability rate for the majority of people is so high. If the virus is so dangerous why were people including UND students being bribed to get tested? Once a person has symptoms they need to get tested but not be given items of value to encourage those with no symptoms to get tested as was shown to happen in various area of ND, primarily college campuses.

Why were healthcare facilities being paid according to the number of virus related patients? Doesn't this indicate the government was encouraging the claiming of virus patients for monetary rewards?

And now the government is mandating a "vaccine" for the treatment of a virus they were encouraging people to get tested for when they had no symptoms.

Imagine a virus so dangerous that one has to be rewarded for getting tested when there are no symptoms of the virus. According to data from the Centers for Disease Control and Prevention, COVID-19 is deadliest among older populations. In fact, through February 17, 93 percent of COVID-19 deaths nationwide have occurred among those ages 55 or older. Only 0.2 percent were younger than 25. This trend can also be found on the state level.

CDC data also show that Americans, regardless of age group, are far more likely to die of something other than COVID-19. Even among those in the most heavily impacted age group (85 and older), only 13.3 percent of all deaths since February 2020 were due to COVID-19.

[Visual charts for national or by state available : <https://datavisualizations.heritage.org/public-health/covid-19-deaths-by-age/>]

Are we even going to talk about all the people that have been vaccinated that contracted the virus ? why then are vaccines even mandated.

Please stop the federal government from taking over the health of North Dakota citizens. If a person has to be told they have symptoms when that person is unaware they are sick makes no sense, especially when the symptoms are so well know.

Thank you

Ron Gibbens
District 20 Grand Forks ND

Technical Communications Committee

Putting something into our bodies should be OUR choice, not forced upon us in order to be able to provide for our families. Having had family members that are still battling ill side effects from the vaccine, I feel very strongly about this. It needs to be each persons CHOICE. I am terrified for my family member who, if forced to get another round, could very well potentially die like many others have. I am asking you to just allow people to make their own medical choice as to what is best for them.

This vaccine is not like other vaccines. According to the CDC you can still get and pass covid. So it is not slowing the spread. There have been well over 6000 deaths according to VAERS from the vaccine. Other vaccines have been taken off the market for under 10 deaths. We are forcing our citizens to take this vaccine that does not prevent you from getting or passing covid and has had thousands of deaths and even more adverse reactions all for a virus that has a 99.997% survival rate for ages 0-19, 99.98% for ages 20-49, 99.5% for ages 50-69, and 94.6% for ages over 70. Those percentages are from the CDC. The adverse reactions from the vaccine are nearing 2million.

PLEASE go with science and freedom and pass this bill to protect our citizens and loved ones, and allow each individual the freedom to choose.

Thank You!

Vaccine Mandates from a Healthcare Provider's Perspective

Dear Legislatures,

I am submitting this Testimony in Favor of HB 1510 due to my personal and daily experiences with the COVID-19 vaccine mandates. I urge you to support this bill and here is why. Whether you are for the vaccine or not, it doesn't matter. Mandates are doing more harm than good. They cause psychological reactance from individuals. I have seen people choose not to get the vaccine because they did not like feeling forced; and then go on to die from COVID. Mandates are damaging. Please support HB 1510.

Thank you for your time,

Hannah

I am in support of HB 1510. I am a registered nurse and I work fully remote for a health insurance company. I am at risk of being part of a COVID vaccination mandate that will require me to either get the COVID vaccine or lose my career. I should not have to choose my career or a medical treatment. I work from home, by myself and I do not travel for work. I do not have in-person contact with my colleagues or patients. I do not need CPR to do my current job. I do not understand why I could potentially be part of a vaccine mandate when I have zero contact with people other than my family and friends.

The constant fear tactics placed upon me by my current company has caused undue anxiety and anguish over the possibility of losing my livelihood. I never thought that by going into the nursing field that I would not have job security. I remember my parents always telling me, become a nurse, you will always have a job! Not anymore.

I am pro-vaccine; I have gotten all the other childhood vaccines plus I get my flu shot yearly. I also have vaccinated my children and they are up to date with their vaccines as well. This was my choice and my husband's choice. There is no more "choice" with these mandates. My employer or government should not choose what is best for me medically. If we allow these mandates to happen, what's next? Are they going to choose what other medications I should or shouldn't be taking? Are they going to choose what procedures I get or don't get? Since when has America become a place where you no longer have freedom to choose what is best for you and your family?

I am standing up for my medical freedom and that of my family and friends. No one should be coerced into getting a medical treatment against their will.

I prefer dangerous freedom over peaceful slavery—Thomas Jefferson 1787

**Do Pass Testimony
of Doug Sharbono, citizen of North Dakota
on HB1511
in 2021 Special Session, Sixty-seventh Legislative Assembly of ND**

Dear Chairs Lee and Weisz and members of the Joint Technical Corrections Committee,

I am writing as a citizen and believe HB1511 is good legislation and ask for a "Do Pass" on it.

My position is very simple. Individual liberty in obtaining or refusing vaccinations should be retained by the people. It is not suitable that in dictator type style, any bureaucrat or politician be able to force-vaccinate us or coerce us to be vaccinated. This is already unlawfully federally mandated, which corporations and governments are following. This right of the people needs to be retained.

If amendments are considered for this bill, please amend in order to strengthen the rights of the people.

Please do pass HB1511 for the benefit of our citizens in North Dakota.

Thank you,

Doug Sharbono
1708 9th St S
Fargo, ND 58103

11893, 11897, 11900, 11905,
11941, 11960, 11964, 11972,
11978, 11982, 12014, 12077,
12104, 12138

Members of the Joint Technical Corrections Committee,

I respectfully request that you implement prohibitions upon all forms of “mandates” as relates to the COVID-19 vaccines, especially in schools and workplaces.

Informed Consent

When employers mandate a medical procedure as a condition of employment they are at worst practicing medicine, and at best they coercively breach the medical ethic of informed consent¹.

As to any prospective new mandate in a school setting, lawmakers should remember that the first US rollout of the polio vaccine² amongst 200K children triggered 40K polio cases, 200 cases of paralysis, and 10 deaths. New vaccine mandates for school admissions should be implemented solely by our legislature. A body of legislators is more likely to use prudence when adding a new vaccine requirement, assessing disease risk to children against a safety track record established over years, while consulting a diverse set of experts and data.

Prohibiting Employers’ Mandates Is Not Government Overreach into Private Business.

North Dakota law is regularly used to maintain a good business climate that balances the rights of business owners (*a property perspective*) and individuals (*a constitutional rights perspective*). N.D.C.C. provides business law governing discrimination, minimum wages, gender wage parity, rest days, child labor, workplace sanitation, family home care exemptions, collective bargaining, environmental quality, and more.

Business Climate

North Dakota’s business community relies upon high-caliber talent. In recent years North Dakota has switched from an inbound state to an outbound state³. Talent and businesses are on the move in the US, fleeing states whose public/private environments have degraded quality of life and moving to those with the promise of the pursuit of happiness and continued freedoms.

North Dakota should ensure that health care decisions remain a private matter between the patient and their doctor.

Thank you for your consideration.

¹ American Medical Association. (n.d.). *Informed consent*. American Medical Association. Retrieved November 5, 2021, from <https://www.ama-assn.org/delivering-care/ethics/informed-consent>.

² Fitzpatrick M. (2006). The Cutter Incident: How America's First Polio Vaccine Led to a Growing Vaccine Crisis. *Journal of the Royal Society of Medicine*, 99(3), 156.

³ Trattner, E. (2021, April 29). *The states Americans are fleeing (and where they're going)*. MoneyWise. Retrieved November 9, 2021, from <https://moneywise.com/life/lifestyle/states-americans-are-fleeing>.

To Whom It May Concern:

I am writing this letter in hopes that it will encourage our representatives to be responsible with their votes on the subject of Vaccine Mandates. We have sent each and every one of you to be our voice. When we hire you, We entrust each of you to show up and be our voice. We trust that each of you will do your Job, with the will of the people as your priority, and not bid against us, putting personal gains ahead of your duties. Special Interest groups that openly promote agendas against Human Rights and Constitutional laws are not what we have sent you to represent. It is your Duty, to Protect and uphold the rights, of every individual in your district, even if

you have personal bias on a subject the answers are easy. How does your vote affect those you represent? For example, by mandating an Invasive Medical Procedure, you will have taken constitutional rights away from those you represent. Who suffers the Consequences of your vote? Does the State, Fed, Pharmaceutical or an Employer suffer the consequences if one dies by these mandates? or, is it the forced Victims who were coerced to choose between supporting their family or losing their jobs? The answer here is simple! This clearly is in violation of the constitution. The only ones to suffer and bear the consequences are the persons being forced to be vaccinated, and their families. Please be responsible with your vote, and approach this with integrity. Many have done alot of bad things because they think we are not

watching. I'm here to tell you we ARE watching.

It's my understanding that there are 2 bills that are being negotiated. It's also my understanding the best course of action would be to merge the two. However, you all need to be more thorough in this bill. Provisions need to be added to protect the Energy Sector employees. It's also my understanding that the Petroleum commission is pushing back on these bills, and would like to see them dropped. This sends huge Red Flags, and comes across malicious at best. Your bills do not protect Subcontractors, and this needs addressed. All Subcontractors in your energy Sector need protections put into place to put a stop to Corporations making up their own rules and end any discrimination. The oil

industry is the largest income for this state. The Energy Sector literally carries this state to prosperity. I can assure you, if these workers are forced and mandated, the majority of the industry's employees will flee, and go to Texas. Companies will relocate where they can thrive without an employee shortage. Many in these jobs are watching you closely. They are already discussing their options, and having plan B's put into motion, for when they face these challenges. When Covid first hit, large corporations made it mandatory for weekly blood test for antibodies, before a Subcontractor was aloud to step foot on a pad. That alone was going to far, but to do our part we made comprises in spite of the fear mongering we endured. However, with forced vaccinations there is no compromise. The vaccinated and their families are the ones to suffer the

consequences whether it be physical disability, illness or worse, death. We dont know the long term consequences to these experiments. Therefore, it is your duty to stop this and kill any opportunities for bad actors who have put money over Life and Liberty. I Trust you will consider what I said here in this letter, and pray you will vote with integrity and protect your citizens and be their voice.

Thank you for your time,

Melissa Sitton

Sent via the Samsung Galaxy Note8, an

AT&T 5G Evolution capable smartphone

In support of 1511, with modification that testing not be required, that it apply to those reimbursed by federal contract, and extend to all injections, not just COVID.

I have worked in healthcare for over 22 years. I have seen the sickest and most vulnerable, and I also see the people who have been injured from pharmaceutical medications and injections. I am not naïve about the ingredients and risks of these interventions. I am healthy, and like many of my co-workers, I will not choose to inject myself with toxic ingredients looking for a healthy outcome.

This coercion didn't start with COVID shots, and it won't stop here either. For far too long, we have accepted that businesses could mandate something as ineffective, and yet still dangerous, as a flu shot. Just think about how illogical it is for an employer to require that you inject a foreign substance in your body (a permanent decision) in order to work for them! I am not a slave to my job, so my job doesn't get to decide my health decisions.

We need legislation that stands up for MY rights as an employee to make my own health decisions no matter where I work! It is not right to admit that the shots can't be required, but then in case of an emergency or for federal contract or payment, that right is void. Healthcare workers need the same rights against all coerced injections! These mandates are not about health, but control.

I am no more likely to be a carrier of a virus than my vaccinated co-workers or patients, so it makes no sense to require that I test frequently (and pay for the test myself). The COVID shots do not prevent transmission or infection, so even if you have gotten the shots, you are at no lesser risk for getting it and spreading it.

We need to support the workers, especially healthcare workers, that didn't work from home but instead worked with the sickest amongst us---before there was even an option for the shot. We have constant shortages in healthcare and making excuses for mandating their health decisions will only make the shortages worse.

STAND UP FOR OUR FREEDOM TO MAKE OUR OWN HEALTH DECISIONS!

Erin McSparron
Occupational Therapist

As of January 1 of 2022 my place of employment will be laying off employees if not vaccinated

Please support HB 1511 to defend the health freedom of North Dakota citizens.

Thank you,
Tanya Watterud
Minot ND

I support HB1511 at its core and also want to see it strengthened to protect the citizens of North Dakota. To protect it from Federal and private entities that wish to force vaccinations onto unwanted individuals. This should be an easy thing. Forcing an individual to take anything against their will that would change their bodies or health is unethical.

Without this bill and protections to citizens of North Dakota I could lose my job because of my vaccination status. Health is a personal right and should not be able to compromise by an employer or any other entity.

I strongly urge the legislature to take up this bill and pass it.

Matt Schramm

I have an anaphylactic allergy to the ingredients in the Covid vaccine. In certain states, I am not allowed to enter a restaurant, grocery store, or venue without proof of vaccination. My allergist has recommended no one in my household be vaccinated. My freedoms, guaranteed to me by the Constitution, are gone in those states! Let's not make the great state of North Dakota one of those states!

I am asking you to support this bill. An employer should not be forced to require a vaccine or any documentation from their employee. This should be freedom of choice.

Dear Joint Technical Corrections Committee:

I am writing in SUPPORT of HB 1511 Relating to employer-required COVID-19 vaccinations; relating to limitations on requiring documentation of COVID-19 vaccinations, antibodies, and post-transmission recovery status; relating to limitations on requiring documentation

Medical interventions are not a one size fits all. Everyone has different genetics, health history, underlying health conditions, etc. Just because 1 person is “fine” from a vaccine doesn’t mean everyone will be “fine”. I am vaccine injured as well as both of my children. Vaccine injuries are not rare and should not be ignored. We can also discuss the fact that Vaccine Manufactures are not liable if you do get a reaction, which should be known.

There are numerous studies out there that can be reviewed, but I will keep my testimony brief. Please pass this bill to protect ND citizens from being coerced into a one size fits all intervention that no one is liable for if there is a reaction.

Thank you for all your hard work and for your time.

Jocelyn Backman

District 13

I am in support of HB 1511. I am a registered nurse who works from home for a large health insurance company. I am at risk to lose my career and livelihood over a COVID vaccination mandate. I should not be forced to choose my personal health decisions over providing for my family financially.

I was widowed with two young children. Being forced to take an experimental "vaccine" with unknown health risks is against my human rights. The thought of a potential unknown severe physical illness/reaction to this experimental "vaccine" which may take the only healthy parent my children have from them terrifies me. Who will guarantee my health? Who will provide and care for my two young children if I'm physically unable to?

I will add I am not an anti-vaxxer. Myself and my children have been given all other routine vaccinations and I have drawn titers to determine our level of protection. I am educated in the healthcare field and have 15 years of experience as a registered nurse. I believe that this experimental "vaccine" is not safe in the current state and everyone deserves the freedom to choose to take it or refuse it.

67th Legislative Assembly Special 2021 Session

Joint Technical Correction

Representatives, I am in full support of HB 1511. It is a good bill and should be passed.

I urge this 67th Special Session to support Medical Freedom in North Dakota, this is the right thing to do. I do not want any mandates in North Dakota, a mandate is not law and I will not Comply.

I believe a business does not have the legal authority to ask me if I have gotten the shot. I do think there will be lawsuits coming and I think these businesses will lose the lawsuit and will end up losing business. I hope a business in North Dakota does not do this because in the end I do think there will be a sign in their window (Going Out of Business).

To avoid costly lawsuits and avoiding a business going out of business, pass HB 1511. We the People of North Dakota will be watching and please do not Water Down these bills, in fact if possible, make them stronger.

Thank You, Gordon Greenstein

US Navy (Veteran)

US Army (Retired)

12003

Hello Senators and Representatives,

I hope you vote yes for all of these bills. They are very important to me.

There has been discrimination against people who have not taken the vaccine and that is wrong. Whether or not to have a vaccine should be a choice and you should not be discriminated for not having it. Having to disclose what vaccines we have had or not had is against HIPPA. We should not be discriminated for not disclosing our medical records.

Thank you,
Sandra Wade
1102 Bouyer Pl
Lincoln, ND 58504

I am in support of HB 1511.

67th Legislative Assembly Special 2021 Session

Joint Technical Corrections Committee

My name is Stephanie and I have lived in North Dakota my entire life. I have a 3 year old daughter and another baby girl on the way.

I am in favor of HB1510 and respectfully request that you support this bill.

There is no reason a person should be discriminated against based on vaccine or immunity status of ANY age.

By looking at the number of North Dakotans who showed up to the Capitol yesterday it is clear that We the People do not want the government to decide what is best for ourselves and our families. This is a personal choice, and we are in charge of our bodies and what goes in to them-NOT the government.

Please support this bill.

Thank you,

Stephanie Hager
Mandan, ND

In Support of:

HB 1508

HB 1510

HB 1511

HB 3049

I work for a large Power Company in North Dakota. As of three weeks ago 62% of all of our employees have not been vaccinated. No doubt that number has decreased by now. But I've spoken to several employees who will be refusing the vaccine and are at risk of losing their jobs and you loosing a portion of your tax base. These employees are heads of departments, supervisors, linemen, electricians, etc. Some of them have large, home-schooled families with a single income. The company intends to achieve a 100% vaccination rate and is choosing to not respond to Religious Accommodations at this time. Please do the right thing and protect the future of your tax base, the reliability of the power system, and stop the vaccine mandates for North Dakota. Acknowledge that human beings have recognized Natural Immunity since the Athenian Plague of 430BC, and stop employer discrimination.

North Dakota Legislators,

We have a chance to protect our North Dakota freedoms today and I urge you to **vote to YES** for Bill 1510 and 1511. Vaccinations are a personal choice. Our forefathers created our Spirit written Constitution for America to protect our God Given Rights – and by voting YES to support these bills, YOU will be adding another layer of protection to ALL ND citizens. Let's show the world that we stand for God, Freedom, and our USA Constitution by leading as an example!

VOTE YES for Measures 1510 and 1511 to protects all residents.

Thank you,

Melissa Gjermundson

My name is Michelle Haley and I am a current employee of Eli Lilly, a pharmaceutical company based out of Indianapolis, Indiana. January 2nd would be my 20 year anniversary. I have worked in different roles from my home in Bismarck the entire time covering multiple states during my career.

On Monday, November 15, I will lose my employment, my pension, stock, company car and a career I have worked very hard to build! On August 12, our CEO announced a mandatory vaccination policy which no longer allowed for proof of antibodies, masks or social distancing, which had been acceptable for the five months prior. We were allowed to submit a religious or medical exemption by September 13th.

Myself and a number of my colleagues submitted our sincerely held religious beliefs, despite feeling completely violated sharing such personal, deeply held spiritual beliefs. On September 29, we were granted a "temporary religious approval" to continue to do our jobs until November 15, along with the demand we must find a remote position within the company to continue employment if we did not get vaccinated. At the time of this letter, there were four, yes four, remote positions in the entire company, which has over 12,000 US based employees.

As you can imagine, I, along with my colleagues, are completely devastated, frustrated, broken hearted and flat out ANGRY! Somehow we are able to continue to do our jobs in our current capacity until November 15, when we magically become an "undue hardship on the business"! The kicker in this scenario is that I currently work 80% from home and worked completely virtually for 12 months, but miraculously I'm a "hardship" to my employer.

I was blessed with a robust immune system that still has antibodies from fighting off a previous infection, but this proof is no longer acceptable. I am not a health risk to anyone and am not an "undue hardship on the business".

There are currently 91 peer reviewed studies that demonstrate antibodies are equal to or greater than any protection from any of the Emergency Use Authorization vaccines. If these treatments were as efficacious as they were originally believed to be, liability shields would not still be in place to prevent liability for every one of the manufacturers.

This is not about health and it never has been! This is about control! This is about companies receiving federal funding and needing to have a vaccination rate at a certain percentage to maintain receiving those funds!

I urge all of you to ask yourselves, "When will this stop? How many boosters will be needed next? What will be the next experimental treatment needed to provide for your family?"

Please support this legislation that allows for every North Dakota citizen to make their own medical decisions. I ask to support strong enough language to protect the North Dakota citizens that are employed by out of state companies, as well as in state businesses.

I look forward to the day when we can look at our friends, family, neighbors and acquaintances and see them as the person they are instead of a vaccination status!

Thank you for your time.
Michelle Haley

When is it ok for an employer to mandate a pharmaceutical drug into an employee to keep a job? I understand that a business should have the freedom to run it's business the way they would like. BUT it needs to stop at body autonomy. What will be next? Employers never should be able to tell an employee or individual what to put in their bodies.

I am affected by the current federal contract mandate. I might lose my job I had for over 9 years due to not injecting an EUA vaccine in my body. I need to support my family! I know thousands of people in the same boat due to draconian mandates here in North Dakota. When is this ever OK? How many people are affected by this in your community?

It is both unconstitutional and unethical to mandate, force, or coerce someone into doing something they do not want to do. This bill protects people's rights for people in North Dakota. I would like to see an amendment that ALL people in North Dakota are protected. People who work in the medical field and LTC NEED to be included in this as they are an important aspect of the workforce.

What are your morals to protect the residents of North Dakota? Or are you motivated by lobbyists of hospitals, business and pharmaceuticals? Do I have to remind you that we are watching you and know this could've been stopped this spring..

Jennifer Kadrmas
North Dakota Resident

Citizen testimony on HB1511

November 9, 2021

Scott Whaley – Mandan, ND

The core of any discussion regarding vaccine mandates and related bills must be fundamental human rights. Do you agree or disagree that a human being has the right to reject the insertion of a substance into her body?

The Universal Declaration of Human Rights, Article III adopted by the United Nations in 1948 states: “Everyone has the right to life, liberty, and security of person.” What is more elemental to liberty and security of person than the right to abstain from injection of a foreign substance into one’s body?

No matter how noble the cause suggested, at the most basic level we are talking about forcing substances into others who oppose it with every fiber of their being.

This is not about unjust restrictions on employers’ rights as some have suggested. This is about affirming that we as North Dakotans and Americans believe in the most basic of human rights. It is We the People, not we the employees.

A vaccine mandate is not a dress code. It is the injection of manufactured substances into a person’s body, potentially against her will.

And the essence of a human right is that it applies to all people – regardless of religion or occupation. Are nurses and long-term care providers less human than lawyers or politicians?

‘Take the shots or we take your livelihood’ is not a choice. ‘Inject your children or they’ll be cast aside’ is inhumane. ‘Show me your private medical information or be exiled’ is un-American.

It is a shame that Representative Ertelt’s bill 21.1114.02000 was not advanced by the Delayed Bills committee, but it is not too late to embrace the simplicity and the equality for all afforded by that bill which was modeled after North Dakota law that stood for over 50 years. Refer to the 16th Assembly Regular Session, Chapter 236 – Vaccination from the year 1919 at the height of the pandemic a century ago.

I implore you to act and to encourage your fellow legislators to affirm that North Dakota is a state that fights for the fundamental human rights of its citizens.

12053

To the Legislative Assembly:

As a citizen of the State of North Dakota, I am reaching out to show my support of HB 1511. As elected representatives of We the People, I am asking you all to listen to the citizens you represent and vote in support of HB 1511.

Sincerely,
Jenna Bachman

Members of the Joint Technical Corrections Committee,

I respectfully request that you implement prohibitions upon all forms of “mandates” as relates to the COVID-19 vaccines, especially in schools and workplaces.

Informed Consent

When employers mandate a medical procedure as a condition of employment they are at worst practicing medicine, and at best they coercively breach the medical ethic of informed consent¹.

As to any prospective new mandate in a school setting, lawmakers should remember that the first US rollout of the polio vaccine² amongst 200K children triggered 40K polio cases, 200 cases of paralysis, and 10 deaths. New vaccine mandates for school admissions should be implemented solely by our legislature. A body of legislators is more likely to use prudence when adding a new vaccine requirement, assessing disease risk to children against a safety track record established over years, while consulting a diverse set of experts and data.

Prohibiting Employers’ Mandates Is Not Government Overreach into Private Business.

North Dakota law is regularly used to maintain a good business climate that balances the rights of business owners (*a property perspective*) and individuals (*a constitutional rights perspective*). N.D.C.C. provides business law governing discrimination, minimum wages, gender wage parity, rest days, child labor, workplace sanitation, family home care exemptions, collective bargaining, environmental quality, and more.

Business Climate

North Dakota’s business community relies upon high-caliber talent. In recent years North Dakota has switched from an inbound state to an outbound state³. Talent and businesses are on the move in the US, fleeing states whose public/private environments have degraded quality of life and moving to those with the promise of the pursuit of happiness and continued freedoms.

North Dakota should ensure that health care decisions remain a private matter between the patient and their doctor.

Thank you for your consideration.

¹ American Medical Association. (n.d.). *Informed consent*. American Medical Association. Retrieved November 5, 2021, from <https://www.ama-assn.org/delivering-care/ethics/informed-consent>.

² Fitzpatrick M. (2006). The Cutter Incident: How America's First Polio Vaccine Led to a Growing Vaccine Crisis. *Journal of the Royal Society of Medicine*, 99(3), 156.

³ Trattner, E. (2021, April 29). *The states Americans are fleeing (and where they're going)*. MoneyWise. Retrieved November 9, 2021, from <https://moneywise.com/life/lifestyle/states-americans-are-fleeing>.

Testimony**House Bill 1511****November 8, 2021**

Chairman and members of the committee – I am Dionne Haynes, a North Dakota resident and mother of two. I am submitting this testimony in support of House Bill 1511, with recommendations.

Vaccinations are a personal medical decision that must be respected. Any judgement placed on a person with an opposing believe is discrimination. Personal medical decisions should not be required to gain employment or receive services from public entities.

Under Section 2, 2.a, 2.b, and 2.c the use of the word “shall” is problematic. “Shall” gives the impression that it is suggested and not a requirement. I recommend changing the word “shall” to “must” in all three subsections.

Furthermore, a penalty for non-compliance is not laid out. There must be a legal recourse or penalty for not complying with this law.

A “do pass” on HB 1511, with edits is recommended.

Members of the Joint Technical Corrections Committee,

I respectfully request that you implement prohibitions upon all forms of “mandates” as relates to the COVID-19 vaccines, especially in schools and workplaces.

Mandates are not a solution as a one size fits all. Employers and schools need to respect citizens rights to free choice for ourselves and children. An exemption should be honored for all. The vaccinated need not fear the unvaccinated because after all, the are supposedly already immune to covid. After over a year and a half we are still in division and pitted against each other which needs to stop for our communities and our commerce and our State. It would seem we are media fear driven and that narrative - it would seem - will not stop. This bill will calm all concerned.

Thank you for your consideration.

Dear Legislators of ND,

I am writing this testimony on behalf of HB 1508, HB 1510, HB 1511, and HCR 3049.

HB 1508-I am currently in support of prohibiting the teaching of critical race theory, I do not believe on these liberal ideals being pushed off on our children, just like I disagree with several sexual education perspectives being pushed. As a parent, it is my job to educate my children how I see fit, and I already feel that liberals are pushing their agenda through the public school system.

HB 1510-I am currently feeling very discriminated against for not getting the vaccine not only from employers in my area, but also from several doctors who are pushing this vaccine on me. I feel like I have lost my freedom of choice, and speech. I have had people comment nasty things on social media about me as a professional simply because of my beliefs in freedom of choice. As a person who has been infected and recovered from covid, I see no need for being forced into a vaccination that has no real approval or research, especially for pregnant women like myself.

HB 1511-This ties into my response to HB 1510, again, as a person who has already been infected and recovered from covid I do not feel the need to be vaccinated. I am fed up with employers, doctors, even my own patients that feel they have a right to my protected health information, or worse yet, feel as if they can impose a forced vaccination which still does not stand up to reinfection like my antibodies do.

HCR 3049- As a person that works with families everyday as a career, I find it troubling that parents right to decide for their children when it comes to ANYTHING is at risk. Parents have the right to make the decision for their children until they are adults and can make the decisions for themselves. This is in regard to aspects such as schooling, vaccinations, and overall health decisions. This is what parents are supposed to do...one could argue that it is their jobs. We are forcing kids to wear masks that affect their overall learning, social skills, and mental health with no regards to these things because "at least they won't get covid" or forcing children to get vaccinated so they can attend school (a vaccine that has no backing until the year 2023, but that doesn't matter to big companies or pharmaceuticals as long as they are making money).

Here is a final statement I would like to leave here, for legislators, governors, and senators alike...don't forget who you work for. WE THE PEOPLE. I pray that you listen to our words, hear our thoughts and vote accordingly since you were chosen to REPRESENT US.

Thanks,
Saje Backman

Good afternoon,

I am writing this testimony regarding both HB1510 and HB1511. My name is Miki Thompson. My family resides in Dickinson, in District 37 currently. I was at the capital yesterday and had the chance to speak to my representatives personally. My husband works in the oilfield, with a subcontractor and has been in the oilfield for many years. He has weathered two booms and busts. The patch here is set to ramp up once again. And with that comes revenue for our state. I urge you to pass a bill that protects our state's hardworking employees, as well as the rights of our hardworking business owners. I understand the ND Petroleum Council is urging the legislature to focus on the spending bills and redistricting bills and bypassing any policy bills regarding mandated vaccines. I find that decision on the council's part to be rash and ill informed, and without any input from the oilfield employees or subcontractor businesses whatsoever. Without these mandate protections, workers will move to states that have already made protecting their workforce and businesses a priority. North Dakota's main source of revenue is oil extraction and production taxes. Without these workers or subcontracting businesses there will be no oil patch. We want North Dakota's oilfield to be the best in the nation. Not only in production, but in the high quality of life and work we provide here. With that being said, I urge you to pass laws protecting our great state's livelihoods. I suggest combining Representative Paulson's HB 1510, and Representative Meier's proposed bill, into Representative Weisz' bill. Offering the strongest protection for years to come. I also recommend the wording changed to ANY vaccine. And shall allow exemptions be changed to must allow exemptions. We also need hiring protections, as well as termination protection. Job security and stability does play a huge role when workers move to a state. Please protect our oilfield and our state's future revenue that the oilfield will yield. I thank you for your time and your service. Please enjoy this beautiful North Dakota fall day.

Thank You,

Miki Thompson

Dickinson, ND

12101

November 9th 2021

Please support HB 1510 and HB 1511.

Vaccine mandates diminish our freedom as citizens to make our own health care decisions. The idea of mandating newly developed trial vaccines for children to take part in school is also ludicrous! Please hear our plea for freedom. Those who wish to be vaccinated have every right to do so. Those who don't should have the same right, without being labeled or targeted in any way.

Thank you

Rose Greer

Cleveland ND 58424

November 9, 2021

Members of the North Dakota Legislative Assembly,

I am writing to urge you to vote DO PASS on HB 1511. I strongly believe a vaccination is personal choice that should be left to the individual. A government entity of any level, employer, business owner or otherwise have no right to insert into that decision. Stand up for our rights and protect our right to choose. Keep North Dakota a state of freedom and free from senseless mandates.

DO PASS HB 1511.

Thank you for your time and consideration,

Jordan Manthei
Resident of Fargo, ND

12119

November 9, 2021

TO: ND Legislators

RE: HB 1511

As a citizen of North Dakota, I am in support of HB 1511 and I encourage you to vote to pass this bill.

Support of 1511 is another step towards protecting North Dakota citizen's God-given rights and freedoms – which is ALWAYS a success!

Thank you for your service to our great state,

Kay Jarratt

12127

I am writing in support of HB 1511. Please protect the rights on North Dakotans

Thank you

Andrea Leingang

Mr. Chairman and Committee members

Vicky Steiner, District 37

I support this bill but please accept these amendments as offered by Rep. Meir.

The stronger it is, the more our workforce will respond in positive ways. The oil field workers are watching, and they have mobility. We can't risk an exodus of contractors to other states that offer protection.

Also, Montana gives the unvaccinated special protected status.

I've heard several corporations and state business associations are opposed to the vaccine bills because they make the argument that businesses should be able to make their own decisions to require the Covid vaccine.

Corporations should not be our health decision makers. And no one should lose their job for not taking the vaccine.

As legislators, we have to balance individual vs business and this is one of those difficult ones.

The constitution protects our life, liberty and pursuit of happiness. Our life includes protection from government inserting a needle in our arms. This right supersedes business discretion.

As Florida Governor Ron DeSantis said last week, "Corporations have become the arm of federal government." He also recommended states resist that action. We first and foremost represent the individual through our constitutional duty.

Again, business corporations are not in charge of the health of my constituents.

Thank you for the consideration of the amendments to strengthen this anti-mandate vaccine bill and I encourage you to incorporate them for the protection of all our constituents.

Rep. Vicky Steiner

District 37

Dickinson, N.D.



*Position Statement on COVID Vaccine Employer Decision Making
November 3rd, 2021*

Employers in North Dakota, especially those in the health care and human service fields, are in the best position to determine how to keep employees and the people they serve safe. Health care and human services providers are already one of the most highly regulated industries by the state and federal government, and Anne Carlsen opposes additional regulation by the state limiting its ability to implement best practices designed to keep the people they serve and their employees safe.

We provide care for some of the most vulnerable children in the state, and we are currently serving 1 children and young adults who are on ventilators, and others who are immunocompromised. In addition to their medical challenges, many are also ineligible based on age to receive the vaccine, and so have very limited protections. We've shared with our staff that our intent is not to infringe on staff's personal freedoms or medical decision making, however, we have a moral and ethical responsibility to ensure to the best of our abilities that we keep the individuals we serve and those who support them safe, healthy, and protected from this virus. This is best achieved by abiding by the best evidence-based medical practices, including vaccination for highly transmissible diseases like COVID 19.

The state taking away our ability to require our valued and already impacted workforce to get vaccinated compromises our ability to keep the people we serve safe and to keep our remaining workforce healthy. For Anne Carlsen, we must take situations like this very seriously because children's lives hang in the balance with these decisions.

It also likely compromises our ability to participate in the Medicaid program, which is the critical safety net program for nearly all the children and families we serve. Compromising our participation in Medicaid would be devastating to our organization and could seriously jeopardize our ability to continue the work and legacy of this 11-year-old organization.

Tim Eissinger | CEO

Mobile 701-799-1111

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Myra Quanrud MD | Medical Director - Jamestown

Office 701-799-1111 x 1111

E-mail myra.quanrud@annecenter.org

The Anne Carlsen Center exists to make the world a more inclusive place where independence is a gift to all.

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www.annecarlsen.org

To North Dakota State Legislature,

Honored sirs, please accept my testimony on behalf of myself, and my wife, who have both suffered loss of freedom, and income as a result of heavy handed covid restrictions. My wife - having been a state registered CNA at a local assisted living facility here in Dickinson, was recently terminated due to her unwillingness to accept the vaccine. (Fired 11-1-2021 Agemark Corporation) As we have both already had Covid, which she contracted at work, and both tested positive by state run testing facilities, the vaccine offers only risk with no benefit to either of us. Having applied for unemployment this week- she was denied benefits for 'INSUBORDINATION.' We feel this is unconstitutional, and a definite overreach by private companies operating in our state, and ask that you protect us from our out of control federal government. We are decent, hard working North Dakota citizens, who simply want our basic civil rights protected. Thank you for your consideration.

James and Judith Corcoran
984 12th ave west
Dickinson ND 58601
7013000099

Good afternoon, Rep. Weisz, Senator Lee and members of the Technical Corrections Committee.

My name is Kylie Hall, and I am a resident of District 45 in North Fargo. I have a Master's Degree in Public Health and I am a passionate vaccine advocate with more than 6 years of professional public health experience.

I have a number of concerns about the bill before us today, mostly related to unintended consequences. I'll try to be brief in my talking points today.

If this bill were passed, we could no longer ask about COVID-19 status or require testing for individuals or groups. I think about long-term cares or group homes requiring COVID-19 testing for entry in times of outbreak or high community transmission. I also think about screening school or university students during an outbreak, this bill says we cannot make people disclose their COVID-19 status.

There are other groups that would be impacted. Think of the department of corrections or the state hospital or other entities that are at high risk for exposure to COVID-19 and that may experience outbreaks or benefit from vaccination.

I also want to touch on the economic impact of this mandate. This bill may limit which events, whether it be concerts, sporting events or conferences, that require vaccination or negative tests could occur in ND. There are many examples in Fargo of concerts that require vaccination or a negative test for attendance. These events have a big impact on the economy. Not only do events like this include ticket sales, but they bring in people to stay in hotels, eat in our restaurants, ride in our taxi services, and shop in our communities. I think it's also important to note that these businesses have weathered a pandemic, and to further punish them financially with these requirements would be brutal.

Another point in this bill prevents private businesses from requiring patrons or customers to provide proof of vaccination, COVID antibodies or COVID status to gain entry or receive services. BUSINESSES should be able to decide if they want to require vaccines or COVID testing status for customers. If people don't like it, they won't support that business. The free market will determine whether or not that is a sustainable move for the business. It might actually move more people to support a business, or it may harm the business. Regardless, businesses should be able to decide if they want to protect their staff and their business from COVID disruptions. The free market will decide the rest.

With the way the bills are written, it ultimately comes down to business autonomy. In a state like ND, where many legislators claim to believe in small government, we need to remind them that that means businesses should be able to decide whether or not they want to require vaccines for their employees and patrons. Blocking vaccine requirements at the state level seems like an overreach of government.

Here's why we think businesses should be able to require vaccines for their employees or patrons. Since the start of the pandemic, COVID-19 outbreaks within businesses have led to business closures and lost productivity. One example from early in the pandemic is when LM

windpower in GF had to close because of an outbreak among its employees. Another example is from two weeks ago, when a Walmart in Dickinson closed due to COVID.

It is important to understand that in some situations, ensuring a vaccinated workforce may be good for business. In healthcare we need people to work and they can't be sick. In a production line or food processing facility, we need employees for the business to operate. It's understandable that businesses may want to limit COVID-19 outbreaks and disruptions in business. Businesses many determine that the best way to protect the health of their employees and those they serve is for employees to be vaccinated.

Businesses should decide if they will offer accommodations to those who do not wish to be vaccinated. Exemptions to COVID-19 vaccine requirements and exceptions for previous infection should be up to each business and not based on state law.

While federal law will supersede state law in many instances for COVID-19 vaccination requirements, individual businesses not impacted by federal mandates should have a right to choose if or what vaccination requirements are best for their business, and state government should not interfere.

Other reason businesses may want their employees to be vaccinated is the cost of health care and health insurance. Businesses and their employees may pay more for health insurance because of substantial healthcare costs associated with COVID-19. We know that unvaccinated individuals are more likely to test positive for COVID-19, are more likely to suffer from severe COVID, be hospitalized from COVID-19, and die from COVID-19. We also know that the average COVID-19 hospitalization costs [more than \\$20,000](#), and hospitalizations requiring a ventilator are much higher. As a means of preventing severe disease and keeping healthcare costs low, businesses may consider mandating COVID-19 vaccine for employees.

Now I want to touch on healthcare worker vaccine mandates. Mandating vaccines for healthcare workers is a common policy that was initially prompted by a dual desire to protect patients from health care-acquired influenza and to protect the workplace from the disruption and expense of worker illnesses. As we consider COVID-19 vaccination, I think you can make an even stronger case for why vaccination is important. COVID is more serious, it spreads easier, it causes significant disruptions in healthcare delivery, the vaccines are much more effective, and ultimately - the vaccines are very safe.

We know that immunization requirements for employees in healthcare help boost immunization rates among staff, they protect our healthcare workers, and that ultimately also protects the patients being served. And we know that vaccinated healthcare workers [are less likely to get COVID-19](#) than unvaccinated healthcare workers. Even if parts of this legislation get through, we need to strongly consider exempting healthcare and long-term care from state laws regarding employer vaccine requirements.

Other important things to note are that many healthcare systems require influenza vaccination, in addition to proof of immunity to hepatitis B and measles. Some staff members are required to be vaccinated against rabies and meningitis. Tuberculosis testing is also commonplace for

healthcare workers. These requirements are not new, but COVID would expand the list of requirements and help protect staff and patients.

Much talk has been given to antibody testing as a means of bypassing vaccination. Let's talk about what we know about natural immunity and antibody testing.

Following infection with the virus that causes COVID-19, many individuals will have immunity. However, it is unknown how long immunity lasts following natural infection, and it is currently impossible to predict who will and who won't develop immunity. It is important to note that infection with other identified coronaviruses does not confer lifelong protection. We do know that reinfections are possible, although they are very unlikely in the 90 days following infection, and the CDC has updated this to say that reinfections are uncommon 6 months out. North Dakota has documented 2,038 reinfections since March 2020. Over half of those reinfections have occurred in the last four and a half months, when the Delta variant became the dominant strain circulating in North Dakota. Because of waning immunity and variants - vaccination will be more important than ever.

To determine immunity, people often look to antibody testing. Current recommendations do not support using antibody testing to determine immunity, as antibody levels do decline over time and the correlates of protection (the level of antibodies needed to be considered "immune") are unknown. Of note, not all individuals recovering from COVID will have detectable antibodies. The presence of antibodies does not necessarily mean one is immune, and the absence of antibodies does not mean an individual has no immunity.

In the future, antibody tests may be developed to ascertain who is and isn't immune. You want that. I want that. This is where we are hoping to get. But we aren't there yet. Knowledge of SARS-CoV-2 and COVID-19 is growing each day and recommendations, such as those regarding protection following natural immunity, may change. It is irresponsible to implement a state law that is not based on the current recommendations or flexible enough to reflect changes that will come as the science evolves. For instance, scientists may determine that antibody tests need to be repeated more frequently than what is included in this bill to accurately determine immunity. This bill, as written, will likely be outdated within weeks or months of its passage.

As a means to provide individuals and our communities with high levels of protection against COVID-19, individuals who have previously tested positive for the virus that causes COVID-19 should receive COVID-19 vaccine. Studies have shown a significant increase in antibodies for individuals who were previously infected and subsequently received COVID-19 vaccines. This may lead to longer and better protection.

Vaccine requirements are for businesses to ask everyone to take all necessary steps to decrease their chance of COVID. We know vaccines aren't perfect. We know prior infection isn't perfect. But a layered approach gives us the best protection possible. This is what we want businesses to be able to do. I'll add this quote from an op-ed published last week about the role of vaccine requirements in keeping everyone healthy.

“Incidentally, the fact that breakthrough infections happen - that some people get the virus despite being vaccinated - actually strengthened the case for mandates, because it means that even those who’ve gotten their shots face some danger from those who refuse to follow suit.”

I want to end by telling you a story about a North Dakota-based business that has implemented a vaccine requirement as a condition of employment. Tellwell is a Fargo Video Production and Marketing Agency owned by Max Kringen. Max was unable to attend today due to other commitments and the expedited schedule of this special session. Tellwell has required COVID-19 vaccines as a condition of employment, and the requirement went into effect on October 15th. The vaccine requirement was announced months before the deadline. In September of this year, an unvaccinated employee came to work and infected over half of the staff. Six people total tested positive out of 11 total staff. The result of this outbreak was \$12,000 in lost revenue out of a monthly revenue stream of approximately \$80,000, and it meant this small business was not profitable for quarter 3 of 2021. For the health of his business and the health of his employees, Max wants to do everything possible to prevent another outbreak of COVID-19 in the workplace. So he has required vaccinations with some accommodations. This is his right, and it should be the right of all private business owners. Max has reported that no one quit as a result of the requirement, no work has been interrupted, and most vaccinated employees are thankful for the requirement, as it promotes a safe work environment.

We often hear from a vocal minority who do not like vaccination requirements, but there are a number of individuals who feel safer at work because those around them are vaccinated. Businesses should have the right to decide if they want to require vaccinations as a condition of employment or as a condition of receipt of services.

Thank you for your time and consideration.

11885

I am opposed to employers in the state requiring documentation of COVID-19 vaccinations, antibodies. The citizens of the state of ND should have the freedom to make their own decision whether or not they choose to vaccinate themselves.

Carl Young
Family Services Network Inc.
Executive Director
Lobbyist Badge Number 136
Bismarck, ND 58504
7012143152
carl@familyservices.network

November 8, 2021

Chair Weisz, Chair Lee, Members of the Committee.

I am writing today in opposition to HB 1511.

I object to HB1511. It is a means of government overreach. We need to work toward the Greater Good. For the Greater Good, we should be advocating that more people receive the vaccine as appropriate to their situation and in consultation with their medical provider. How does this legislation do that?

While I do agree that discrimination in any form, for any reason is wrong, I also believe that this legislation will hamper the snails progress that we have made in recovering from the Covid-19 pandemic.

HB 1511 Employers have the right to require their employees to be vaccinated in order to protect their colleagues, customers, and patients

I am opposed to HB 1511 for the following chain of reasons:

(1) The evidence that individuals not vaccinated against COVID-19 are those currently perpetuating the pandemic as it circulates among those non-immune persons,

(2) And that COVID-19 is highly contagious, and deadly to over 800,000 Americans already,

(3) And that since 1905 states have had the right to require (but not forbid) a vaccine mandate in order to do their constitutional duty to guard the general welfare of the public,

(4) And that workplaces bring people in close contact and are responsible for spreading the virus to unknowing colleagues and customers,

(5) And, because a free market allows the employer to implement policies and requirements that they want to,

(6) And finally, North Dakota is a “right to work state,” so individuals opposing the vaccine have the right to find another job.

(7) Therefore, please vote down HB 1511.

Mark A. Strand

2208 25th Ave South, Fargo, ND

In regard to HB 1511

I oppose this bill, as I believe the majority of ND citizens do. Covid-19 is the most disruptive public health crisis of our lives. The way to end it is through vaccination of as many people as possible.

Just as you may disagree the federal government has right to tell us what TO do, I believe the legislature has no business telling people or businesses what they CANNOT do! Please kill this bill.

I am strongly opposed to Covid-19 mandates. Vaccination status is a private matter and a choice that needs to be granted to each individual. Those that choose to be vaccinated are protecting themselves and need not be concerned about others who choose not to be vaccinated, as that non-vaccinated individual is only effecting themselves.

Employers have no place requiring employees to be vaccinated as the only person the vaccine affects is the individual that gets it. The adverse reactions from a vaccine could affect the employee, and neither the employer nor the pharmaceutical company accept any responsibility for those problems.

This bill is a drastic overreach of government power and should not be implemented.

Thank you,
Joel Dennis
701-340-3197

Testimony to the Joint Technical Corrections Committee

Testimony by Barbara Frydenlund Rolette County Public Health District Administrator

Good afternoon, Chairman Weisz, and members of the Joint Technical Corrections Committee. My name is Barbara Frydenlund, and I am the Nurse Administrator for Rolette County Public Health District. I am offering this testimony today regarding HB 1510 and HB1511.

As a Registered Nurse and a mother of two, I ask policy makers to follow the science of immunology, vaccination, and disease prevention. Our communities, state and nation will be a safer place once everyone has access to science based, competent health care and access to all authorized/approved vaccines.

You are aware that there are several vaccine preventable diseases. Many of these diseases have never been seen by today's healthcare providers and parents, in part because for years we have been actively educating parents and guardians and vaccinating children and adults.

History is said to repeat itself! A very wise man told me years ago that "those who do not remember or recognize the past will surely repeat it!" This wise man was my grandfather who witnessed firsthand the tragedy of the 1918 flu pandemic, as he and the local doctor drove from house to house, via horse and buggy, helplessly witnessing death after death from what is now known as a vaccine preventable disease. Let us not relive the tragedy endured by our ancestors, of the untimely deaths at the hands of what we now know as vaccine preventable diseases.

Groundbreaking medical victories continue to provide American's with this high health standard. Immunizations are among the most cost-effective and successful public health interventions.

This fall we have seen an uptick in the number of children and adults contracting COVID 19. A casual glance around our state demonstrates a significant decrease in COVID mitigation measures including masking. In 2020 and early 2021 we protected our children at a higher level than we are currently.

From a local public health administration view point I strongly believe that it is my responsibility to protect my workforce and our clients from disease including

vaccine preventable diseases. We are already facing workforce challenges and additional loss of employees who are out of the office “ill” further hampers our ability to serve our citizens.

North Dakota Legislation is of extreme importance to Rolette County Public Health District as we continue to work diligently to deliver the highest level of disease protection, promotion of healthy lifestyles and protection of the environment.

Please continue to allow Rolette County Public Health District to retain the authority to set local policy that best suits our environment and culture.

Sincerely,

Barbara Frydenlund, RN
Nurse Administrator
Rolette County Public Health District



BISMARCK MANDAN

CHAMBER | EDC

Joint Technical Corrections Committee – HB 1511

Representative Robin Weisz and Senator Judy Lee, Chairs

November 9, 2021

Chairs Weisz and Lee

My name is Brian Ritter and I am the President of the Bismarck Mandan Chamber EDC. Please accept the following testimony on behalf of our organization's nearly 1,200 members in opposition of HB 1511.

Our organization engages in a number of activities on behalf of our members to support the continued growth and development of our community—all of which have been impacted by the COVID-19 pandemic. As our community and our businesses return to 'normal' they face many new questions, including those surrounding vaccinations and the vaccination status of their employees.

These are incredibly complicated and impactful questions that will require time to fully vet, as will any legislation that seeks to address them. Given the lack of time available during the special session for a comprehensive review of legislation like this, that could impact a private employer's ability to make related determinations for themselves, we oppose HB 1511.

Respectfully,

Brian Ritter, President

Bismarck Mandan Chamber EDC

Dear Sirs and Madams of the ND Legislator:

Hello, I would like to start by thanking you all for your service in government.

My name is Shaundi Meyer. I have worked in the medical field for 20 years. I feel that in my years of health care work, I have learned a lot, studied more, and always had my ears and eyes open. Wherever I worked, I took it as an opportunity to learn, and I never stopped asking questions. I was a CNA and a Doula (a birthing assistant or coach) when I lived in Oregon. I worked with Certified Nurse Midwives and OB/GYNs. There I studied homeopathy and herbal remedies. I also studied massage and aromatherapy to assist in my work as a Doula. I volunteered to work with addicted moms living in a treatment facility, mothers who had HepC, HepB, and HIV. So I am no stranger to dangerous, infectious diseases. I also completed training for phlebotomy at LCC. We then moved back home to Bismarck. I began working as a phlebotomist at Med Center 1, and continued working there during the whooping cough epidemic in 2004. I began school for Surgical Technology, but an accident in 2005 forced me to drop my courses. I had a complete fracture of my right foot-I tore through 30 ligaments, essentially breaking my foot in half. I had wanted to become a surge tech and hopefully go back to school to become a Critical Care Nurse or work in trauma. But the accident took me off my feet for eight years on and off. After ten surgeries, I was able to get back on my feet. That is when I became an employee at CHI St. Alexius in Bismarck, and have worked there for 7 1/2 years-I started as a CNA, until I injured my shoulder. For the last 6 years I have worked at the switchboard and at the Information Desk. We help a lot of patients, visitors, and staff. As of right now my job is in jeopardy, because my medical exemptions were denied. My doctor wrote both letters on formal letterhead, and included everything they had asked for. The first letter stated due to underlying medical conditions, she was advising against the vaccine. That letter was denied and they demanded a new letter, so she wrote one that said I had anaphylactic responses to the flu vaccine, and it was denied. Both letters are in their third review-every time I get denied I have two weeks to give them more information.

I have worked the frontline from the beginning of this pandemic, and have worked in high-risk exposure situations, so I am no stranger to PPE, and disease. I was told to put a mask on and screen patients and visitors. I was exposed to covid numerous times and I caught covid because CHI St. Alexius did not provide the proper eye gear that would fit over my glasses. The patient had a smokers cough and was not wearing their mask properly when I bent over to hear their question, they coughed into the side of my face-and into my eye. I was told to go to Menards and buy a pair-because they could not give me a pair like Radiology or Surgery would wear (the ones that worked over my glasses) as they claimed they did not have enough. After I came back from having covid, I called Central Supply, told the worker what happened, and I received a pair of eye protection, with a package of extra replacement plastic lenses, that worked over my glasses.

When news came out about a vaccine, my instant reaction-the vaccine would kill me. I am extremely allergic to latex and that the small amount of natural rubber latex in the cap of the vaccine vials would cause an anaphylactic reaction, as I have had before to other medications in the same vials. I was also afraid that my immune system would flare up-I have an autoimmune disorder-arthritis, and a nerve condition called CRPS or by its old name-RSD. My nervous system is in overdrive from an accident years ago, the sympathetic nerves flare up-causing severe pain, tendinitis, temperature changes, swelling, muscle spasms, immobility, and bone loss. Illnesses, stress, and pain or injury all cause flares up. Often times if I'm getting a virus or illness, my nerves and joints flare up first. My fear was that this vaccine would cause my immune system to attack itself, causing my nervous system to attack itself, or to flare up into a Guillén Barres type syndrome. And that fear was validated when I met someone who had the same nerve condition as me and her specialist out East told her not to get this vaccine-it would cause her nervous system to attack itself and shut down, or go into hyperdrive and eventually kill her.

Why do I have these fears-let me explain my other vaccine reactions, and why I believe my vaccines from my youth have caused a lot of the health problems I have now.

I have a lifetime exemption from the flu vaccine due to anaphylactic shock reactions. Although I had an anaphylactic shock response to the regular flu vaccine, I offered to try it without preservatives the next year and I reacted the same way.

When I started working as a phlebotomist at Med Center 1 (now Sanford) I was given a titer for the HepB vaccine. Although I had received this vaccine as a teenager, I had not developed the antibodies. So they gave the series of three shots to me again and we waited. We did another titer-no antibodies. Again I was administered the vaccines. This time though, I developed what they would call complex regional migraines. My co-workers at the time found me confused and lost in the back of the lab. I did not know where or who I was and I was blind in the left eye. The left side of my face was drooping and my left arm was numb. I spent the weekend in the hospital being worked up for strokes, brain tumors, and whatever else they could think to test me for. I had to deal with these “migraines” on and off for two years. When they tested me again-I still hadn’t developed the antibodies. At this time they felt it was enough, and that I probably never would develop the antibodies. Later I would find out that 5-10% of the population does not develop antibodies to vaccines. I would also discover that the symptoms I had directly after the vaccine were considered serious adverse reactions and should have been reported.

When I was six years old I received my vaccines to go to first grade. I developed a fever and a migraine so severe, I can remember it 36 years later. My grandmother gave me a baby aspirin for the fever. Within hours my hands and fingers turned purplish-blue and became so swollen that I could not move them for three days. After the swelling went down, it took weeks before my hands felt normal again, and the pain from the start of the reaction to weeks after was so horrific that I can still remember exactly how it felt today. Since then I have had a reactive type arthritis that causes fever and inflammation when I’m sick or when my body is fighting something. I was a typical tough little farm kid until I had those vaccines. After that “growing pains”, a heightened sensitivity to pain, joint issues, and fevers were a regular part of my life.

I have also felt the discrimination from co-workers, patients and visitors. Many will have no problem telling me that I’m killing them, that I’m the reason covid is still around. These patients and visitors do not know I’m unvaccinated and so it is forgivable and I ignore them, but a co-worker in another department next to where I work does know. And we used to be on the same page-she said numerous times that she agreed with me on the dangers and the mandates. That was until Friday, her supervisor came into my area, and blatantly told me I am not allowed to speak to her staff. I am not allowed to ask them for help with anything, and I will not speak to any of them about “my politics”. This supervisor has had a problem with me since she found out I was against the mandates and against this vaccine. She is nice to my co-workers, both of whom have gotten their vaccines, she jokes and laughs with them. I only get nasty comments and dirty looks from her. I have also been told to get on board with this, because this is the way the world will be. I was full time until hours were cut and I was told to find hours as a greeter/screener. As I fought to get full time hours, with no PTO(I was using it to replace the hours I was losing) I found out my co-workers-both vaccinated-are still getting full time and have 200+hours of PTO each. When the hospital stopped labor pool and bought a tablet to screen people, I was told to get my hours at my other job-while both my co-workers still have full time hours. (The cut in hours for productivity was supposed to be equal to every employee-8 hours each week). This is a complaint that I have fought with them for months now, and this week it will be time to go to HR to start a formal complaint of how I’ve been treated. And perhaps put in my notice.

These mandates are dangerous, not only because of the unknown long term affects of this vaccine, but the short-term and immediate effects are disabling and horrific. These mandates are dangerous, causing people to quit their jobs or have nervous breakdowns-fear of how they will make ends meet. These mandates are dangerous because they are taking away the right of the person to chose what is best for their body and health. These mandates are dangerous because they are a head game-a threat to get everyone to concede to vaccinations. That's what CHI did-they used their survey to get people to answer, they gave religious and medical exemptions-many were denied and got the vaccine because of fear, some of those people are very sick right now. They even developed a new committee to go over the religious exemptions because of the amount they were denying. After all of the-you were denied, we give you two weeks to get us more info, you are denied, two more weeks, denied, two more weeks-but now all of those that got denied can self-test. It is maddening-the back and forth was enough stress to make me physically sick-my health conditions have flared up, and on top of it I'm fighting an ulcer due to all the stress. My job started to become a hostile work environment when this pandemic started-the number of death threats, the incidents of verbal, physical, and emotional abuse that I have dealt with because of the rules of masking and visitation have been astronomical. But today, in my own opinion, my workplace-with the staffing shortages, and with all the traumas and hostilities over the year-it's much worse than a hostile work place. It is not a hospital that receives all as Christ, instead it favors the vaccinated. And has made it apparent that those who fear the vaccine do not get to have a voice.

And finally these mandates are dangerous because if the government can force an experimental, dangerous medicine into its constituents, what is stopping it from complete tyranny? It is not the job of the government to decide what should be decided between a doctor and a patient. Please consider this in your voting today. If vaccines can harm me this much, and the injuries I have seen-what could happen to you, to your loved one, to your child if the vaccine is forced upon them? I pray those that got the vaccine have no side effects, no adverse reactions, and I pray that they understand why I would not want to risk my health or my family's wellbeing for an experimental shot.

My prayers are with you all, and I pray that our voices-the voices of your constituents would be heard. We do not want these mandates, and after all of the months that we spent taking care of the sick, all of the families that I escorted to the rooms of dying patients, all the people I comforted and gave love too, it was not for nothing, it was what I, what we were called to do, to step up and love and care for the sick. And for the last almost two years we all did it without an experimental vaccine, we did not kill anyone, we only accepted all as Christ-we did our job as healthcare workers, and we did it well. Often times on little sleep and without breaks, with fear in the back of our minds-for our own families and loved ones. But we still did it and are still willing too-if we are allowed too.

In Christ,
Shaundi Marie Meyer proud North Dakota and Patriot Mama



12099

Joint Technical Corrections Committee
Senator Judy Lee and Representative Robin Weisz, chairpersons
Nov. 9, 2021
HB 1511

Chairpersons Lee and Weisz and members of the committee: My name is Steven Weiser. I am a long tenured emergency room physician and I serve as President for Altru Health Systems in Grand Forks. I also serve as board chair for the Health Policy Consortium, a healthcare advocacy group that includes Altru Health, Trinity Health in Minot and Sanford Health in Fargo and Bismarck. Collectively we provide 80 percent of the acute healthcare services in North Dakota.

On behalf of my HPC colleagues I would like to thank each of you for your support and your leadership. As you know, providing high-quality healthcare in a rural state is uniquely challenging. But while other states struggle through hospital closures and shrinking access to care, North Dakota's hospitals are supported by sound policy decisions.

We are at a crossroads where we again look to you to make an important policy decision that will greatly impact how hospitals can – and cannot – keep our staff and our patients safe from preventable diseases. The mission of a hospital is to provide the greatest level of care to its patients. To do so, healthcare workers are required to comply with many safety and infection prevention control measures, including vaccinations. Because COVID-19 vaccines, a proven way to fight the spread of COVID-19, has been horribly politicized, you are being pressured to pass a law that prevents businesses ability to require it. Please resist the pressure to do that and *please vote no on House Bill 1511.*

The consequences of passing vaccine-related legislation at this time, especially policies that impede our ability to keep employees and patients healthy, will unquestionably result in more hospital-acquired infections, longer hospital stays and more death. North Dakota hospitals have been struggling to keep up with an increased demand for acute care for over 18 months. There could not be a worse time to take away our most powerful tool to prevent the spread of COVID-19.

Please know that as health care providers across the state have implemented vaccine mandates for their employees, it has been done with the utmost consideration for the health and safety of those employees and patients served. Mandating vaccines has been considered carefully along with individual rights. Exemptions for religious and medical reasons have been thoughtfully respected. To protect our staff and the patients we serve, we continue to use every available tool known to prevent the spread of the virus that causes COVID-19 including wearing masks and visitor restrictions.

Our physicians, nurses, and other vital frontline health care workers are doing heroic work for our communities despite shortages in staff that predate the pandemic and have grown because of it. We are immensely proud of and grateful for their work and the sacrifices made daily to care for others.

Vaccination requirements for health care providers and staff are not new. Hospitals have long required vaccinations for measles, mumps, rubella, chicken pox and influenza with remarkable impact on staff and patient safety. As is the COVID-19 vaccine, these immunizations are well-researched, safe and provide extensive protection from the greater risk of illness.

Removing a private business' ability to require a vaccine for employees would jeopardize the ability of our hospitals and clinics to safely treat those under our care. Further, creating legislation at a time when the pandemic is still spreading throughout our communities could negatively impact a future need or critical decision that ultimately protects our community from greater harm and loss.

Our state's health care providers, while strained, are working tirelessly to provide critical care for our citizens. We respectfully ask that you protect healthcare providers' abilities and decisions to continue the fight against this pandemic and keep our communities safe and sound.

Please vote no on this bill and others that limit an employer's right to do what is in the best interests of their employees and of those to whom they provide services. This bill would force healthcare providers to take a huge step backward in proven infection control practices, hamstringing providers at a time when every hospital in the state is stressed trying to keep up with demand for hospital and emergency care.

Sincerely,
Steven Weiser, M.D.
Health Policy Consortium Board Chair
Altru Health Systems President
sweiser@altru.org
701-330-5916

November 9, 2021

Testimony offered in opposition to HB1511

Representative Weisz, Senator Lee, and members of the Technical Corrections Committee,

I am Karen Ehrens, Bismarck I am a member of the Governing Board of the North Dakota Public Health Association. I am a registered dietitian with a certificate in the core courses of public health, and have been working in public health for more than 25 years.

The North Dakota Public Health Association was founded in 1944, and is the only organization in the state that represents the public health workforce and public health professionals with 177 members from all around the state.

Please do not vote in favor of Special Session HB1511. Following find some of many concerns that public health workers, responding to the COVID-19 pandemic since the beginning of the pandemic, have expressed.

This bill would harm local jurisdictions' and business owners' ability to make decisions in the interest of public health, their population or customers, and their staff.

- This bill infringes on local control and political subdivisions' ability to make decisions and regulations that are appropriate for the conditions in their areas.
- This bill infringes on the rights of business owners. Just as business owners are afforded the right to not allow patronage from people without shoes or a shirt, so too should these businesses be allowed to refuse patronage from unvaccinated individuals if they so choose. This bill would have a tremendous impact on the ability of concert promoters or other large event planners to safely allow large gatherings.
- Public health organizations have a duty to protect workers. This bill harms public health organizations the ability to protect their employees.
 - This legislation may have negative impact on health care organizations' ability to require vaccination for employees and protect its patients or the population they serve.
- This legislation may harm university system operations, particularly colleges that train those entering the health professions.

COVID disease testing is not a reliable alternative to vaccination for North Dakota

- Testing is part of an overall approach to reducing the spread of disease. There does not exist in all parts of North Dakota the capacity to offer regular testing to individuals.
- Population serial testing (testing multiple people multiple times), which varies in price and availability, can be more expensive than vaccination. As with any screening, tests will not

identify 100% of cases 100% of the time, so the testing only option leaves itself open to false negatives and false security.

- The cost and lack of availability of serial testing makes this requirement discriminatory. It only works where people have the means and access to such testing. Many residents in rural and frontier areas DO NOT have the opportunity to obtain regular tests.

COVID antibody testing is not a safe alternative to vaccination

- There is not evidence that testing for the presence of antibodies provides reliable proof of immunity to disease. There is not yet enough evidence or agreement that the presence of antibodies after 12 months of experiencing a COVID-19 infection signals that people are immune to or could not spread COVID-19.
- Commercial antibody tests are NOT authorized for use in any clinical decision-making. The antibody tests available now cannot and should not be compared to serum testing that is available to clinicians to make recommendations about who is susceptible to diseases such as rubella or hepatitis b. This is like comparing the purchase of \$1.00 pregnancy test from the drug store to a blood test provided at an OB/GYN office; the commercial tests are not reliable and are not yet ready to be used to make decisions.

Please consider that this bill would have tremendous, negative impacts on the health of the North Dakotans you serve. Thank you for your time and the consideration of these comments.

November 9, 2021

FMWF Chamber Opposition to HB 1511

Chairman Weisz, Chairwoman Lee, and members of the Joint Technical Corrections Committee,

For the record, my name is Katherine Grindberg and I serve as the Vice President of Public Policy for the Fargo Moorhead West Fargo (FMWF) Chamber of Commerce. The Chamber's mission is to be a catalyst for economic growth and prosperity for businesses, members, and the greater community. Today, on behalf of our over 1,900 members, I offer testimony in opposition to House Bill 1511 as written.

We realize there is an appetite to advance legislation related to COVID-19 vaccinations, among other topics, and strongly urge that business flexibility is prioritized and federal compliance is recognized.

A major concern with this bill is the lack of consistency with federal vaccine mandates. Section two details exemptions employers shall allow for in regards to vaccination requirements. These exemptions are not consistent with federal regulation which puts businesses in an unfair situation of being non-compliant with either the state or federal law. This is especially true for federal contractors where periodic COVID-19 testing is not a federally accepted exemption. Business exemption language regarding a federal law, rule, or guidance is necessary for section two.

Section two, subsection 2c outlines health, religious, philosophical, or moral exemptions. We oppose adding any exemptions beyond the medical and religious exemptions already required by federal law. This is an unnecessary duplication that adds to inconsistency, creating difficulties for businesses.

Finally, we believe that private business leaders can make the best decision for their individual businesses based upon their unique services, location, workforce, and needs. Section one, subsection two prohibits businesses from requiring customers to provide proof of vaccination or the presence of pathogens, antigens or antibodies in order to gain access or services from the business. This regulation is an overreach on private businesses and adds further barriers for commerce and tourism



as it would affect events where speakers or artists will not perform in venues without vaccine requirements.

The Chamber opposes any legislation that doesn't respect business flexibility or creates inconsistency with federal compliance. Thus, I respectfully ask this committee to recommend a DO NOT PASS to House Bill 1511 as written.

Thank you for your time and consideration, I will now stand for any questions from the committee.

Respectfully,

Katherine Grindberg

Vice President of Public Policy

FMWF Chamber of Commerce

kgrindberg@fmwfchamber.com | 701.516.2114

Dear Legislative Committee:

This vaccine mandate is government overreach...to force a vaccine on any individual is illegal. To force vaccines on individuals in private businesses with over 100 employees, hospitals, long term care facilities, nursing homes...etc...is illegal.

Our legislatures missed the boat when they did not stop the vaccine mandates on CHI and Sanford hospitals ...look where our healthcare is now. Let's face it, our Sanford and CHI hospitals are struggling...they will not admit it of course, but not only are they understaffed, but so stressed out because of how this mandate has destroyed the best health care.

I see where the Attorney General is finally moving forward with a lawsuit to stop the government overreach on private businesses...and it is going to get worse if we don't fight back.

I like the statement "The Biden administration's overreaching mandate will only add to vaccine skepticism and resistance and exacerbate labor challenges while intruding on states' rights and personal freedoms. The courts should immediately block this OSHA emergency rule and protect the freedom of private employers to make decisions on vaccinations that are right for them and their businesses."

Please help the people of ND and the United States of America. We need to get our country back.

Thanks for your time.

Roberta Nagel

7035 6th Ave SE

Linton, ND 58552

701-321-1110

rynnagel@bektel.com

I am submitting testimony for HB 1511.

I was recently diagnosed with an autoimmune disease. It has been found that vaccinations (of any kind really, not just those for COVID-19) can either create a 'flare up' in those with autoimmune conditions OR can cause a person's already taxed body (from internal and external toxins from conventional, industrialized food, the environment, mental health issues, etc.) to develop one.

I am not anti vaccine. Not in the least. I am, however, anti-making decisions based on false, fear based, corruptly funded 'advice' and 'science'. Since my diagnosis I have been doing as much research as I possibly can to help create the best version of myself as I possibly can. I am a mother to two young daughters. I have made the decision that these vaccines in particular (the ones related to COVID-19) are not what will be included in my (or my family's for that matter) health CHOICE. Choice. That is what is is. MY choice. Our choice.

Health is NOT a one size fits all approach and should not be treated as such. To require that every single person be vaccinated against COVID-19 takes away a person's ability to CHOOSE what is best for their own health based on their individual story and should not have to require a physician's 'approval' for exemption. A person should have the choice to decide for themselves what is best for their bodies, what will help them thrive; whether they choose to be vaccinated or not. At the risk of developing a flare with my current autoimmune disease or possibly developing autoimmunity to another tissue in my body (which, people with autoimmunity are at RISK of developing an additional autoimmune disease every 10 years) AND risking not being my healthiest self for my daughters, husband, family and friends, I CHOOSE not to be vaccinated because it isn't right for me. The risks of worsening my autoimmune disease far outweigh the benefits of receiving a vaccine for COVID-19 at this time. The risks of potential side effects and/or death associated with the current COVID-19 vaccines far outweigh the perceived safety net it (does not) provide.

PLEASE. Do NOT force (or even allow) employers to enforce COVID-19 vaccines or require proof of vaccination (or antibodies for that matter) for employment. Taking away a person's right to choose whether or not to be vaccinated against COVID-19 is NOT the way to approach creating a healthier population. I cannot imagine being so ill for my daughters and husband that I cannot function enough to be their mother and wife. I cannot imagine not being there for them, period. COVID-19 and countless other illnesses can be and ARE very serious especially for vulnerable populations. However, INSTEAD of placing fear into the hearts of all, put time, energy, resources into education about how we can be the healthiest most positive versions of ourselves based on PROPER nutrition, exercise, mental health, community, etc. so our bodies are better able to handle viruses, toxins and countless other insults our bodies are exposed to.

2021 JOINT STANDING COMMITTEE MINUTES

Technical Corrections Committee Pioneer Room, State Capitol

HB 1511
11/11/2021
AM

A BILL for an Act to create and enact a new section to chapter 34-03 of the North Dakota Century Code, relating to employer-required COVID-19 vaccinations; to amend and reenact section 23-12-20 of the North Dakota Century Code, relating to limitations on requiring documentation of COVID-19 vaccinations, antibodies, and post-transmission recovery status; to repeal section 23-12-20 of the North Dakota Century Code and section 2 of this Act, relating to limitations on requiring documentation of COVID-19 vaccinations, antibodies, and post-transmission recovery status and employer-required COVID-19 vaccinations; and to provide an effective date.

Co-Chair Weisz called the hearing to order, Vice Chair Porter, Representative Dockter, Richter, Louser, O'Brian, Roers Jones, Hanson Co-Chair J. Lee, Vice Chair Patten, Senators H. Anderson, Schaible, Dwyer, Kannianen, Vedaa, Bakke, present [10:22]

Discussion Topics:

- COVID 19
- In and out of state business
- Testing requirements
- Sunset clause
- Healthcare providers
- QR Codes

Representative Porter submitted an amendment 21.1105.01010 #12258. [10:25]

Senator Anderson submitted an amendment 21.1105.01011 #12259. [10:50]

Representative Becker submitted an amendment 21.1105.01013 #12260. [11:01]

Representative Hanson proposed removing the overstrike related to Section 1 line 17-21 on page 2 of amendment 21.1105.01010

Co-Chair Weisz adjourned the hearing. [11:26]

Sheldon Wolf, Committee Clerk

21.1105.01010

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1511

Introduced by

Representatives Weisz, Becker, Devlin, Lefor, Meier, Paulson, Porter, Schauer

Senators Lee, Wardner

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to create and enact a new section to chapter 34-03 of the North Dakota
2 Century Code, relating to employer-required COVID-19 vaccinations; to amend and reenact
3 section 23-12-20 of the North Dakota Century Code, relating to limitations on requiring
4 documentation of COVID-19 vaccinations, antibodies, and post-transmission recovery status; to
5 repeal section 23-12-20 of the North Dakota Century Code and section 2 of this Act, relating to
6 limitations on requiring documentation of COVID-19 vaccinations, antibodies, and post-
7 transmission recovery status and employer-required COVID-19 vaccinations; and to provide an
8 effective date.

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

10 **SECTION 1. AMENDMENT.** Section 23-12-20 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **23-12-20. ~~Vaccine~~COVID-19 vaccination and infection information.**

- 13 1. ~~Except as provided under sections 15-1-23-02, 23-01-05.3, and 23-07-17.1,~~
14 ~~neither~~Neither a state government entity nor any of its political subdivisions, agents, or
15 assigns may:
- 16 a. Require documentation, whether physical or electronic, for the purpose of
17 certifying or otherwise communicating the following before providing access to
18 ~~state~~ property, funds, or services:
- 19 (1) An individual's COVID-19 vaccination status;
- 20 (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
- 21 (3) An individual's COVID-19 post-transmission recovery status;
- 22 b. Otherwise publish or share an individual's COVID-19 vaccination record or similar
23 health information, except as specifically authorized by the individual or otherwise
24 authorized by statute; or

- 1 c. Require a private business to obtain documentation, whether physical or
2 electronic, for purposes of certifying or otherwise communicating the following
3 before employment or providing access to property, funds, or services based on:
4 (1) An individual's COVID-19 vaccination status;
5 (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
6 (3) An individual's COVID-19 post-transmission recovery status.
- 7 2. A private business located in this state or doing business in this state may not require
8 a patron, client, or customer in this state to provide any documentation certifying
9 COVID-19 vaccination, the presence of COVID-19 pathogens, antigens, or antibodies,
10 or COVID-19 post-transmission recovery to gain access to, entry upon, or services
11 from the business. This subsection does not apply to a health care provider, including
12 a long-term care provider. As used in this subsection, a private business does not
13 include a nonprofit entity that does not sell a product or a service.
- 14 3. This section may not be construed to interfere with an individual's rights to access that
15 individual's own personal health information or with a person's right to access personal
16 health information of others which the person otherwise has a right to access.
- 17 4. ~~Subsection 1 is not applicable to the state board of higher education, the university~~
18 ~~system, or institutions under the control of the state board of higher education to the~~
19 ~~extent the entity has adopted policies and procedures governing the type of~~
20 ~~documentation required, the circumstances under which such documentation may be~~
21 ~~shared, and exemptions from providing such documentation.~~
- 22 5. This section is not applicable during a public health disaster or emergency declared in
23 accordance with chapter 37-17.1.
- 24 ~~6.5. This section is limited in application to a vaccination authorized by the federal food and~~
25 ~~drug administration pursuant to an emergency use authorization does not apply to the~~
26 ~~extent a federal law, rule, or guidance preempts application, or to the extent~~
27 ~~application would result in a person incurring direct financial losses due to~~
28 ~~noncompliance with the federal law, rule, or guidance.~~
- 29 ~~6.5.~~ As used in this section, the term "COVID-19" means severe acute respiratory
30 syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral
31 fragments of SARS-CoV-2.

SECTION 2. A new section to chapter 34-03 of the North Dakota Century Code is created and enacted as follows:

COVID-19 vaccination requirements - Exemptions.

1. As used in this section, the term "COVID-19" means severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2.

2. If an employer ~~in this state~~ or contractor requires an employee ~~or, prospective employee, or independent contractor in this state~~ to be vaccinated against COVID-19 as a condition of employment or a term of a contract:

a. The employer or contractor shall allow the employee, prospective employee, or independent contractor to submit proof of COVID-19 antibodies as an exemption to the vaccination requirement. Such proof is valid for ~~twelve~~six months from the date of the antibody test.

b. The employer or contractor shall allow the employee, prospective employee, or independent contractor to submit to periodic COVID-19 tests as an exemption to the vaccination requirement. ~~Under this subdivision, the employer may not require more than two tests per week but the employee may be responsible for the cost of the testing.~~

c. The employer or contractor shall allow the employee, prospective employee, or independent contractor to submit one of the following certificates as an exemption to the vaccination requirement:

(1) A certificate from a North Dakota licensed physician or advanced practice registered nurse stating the physical condition of the employee, prospective employee, or independent contractor is such that immunization would endanger the life or health of the employee, prospective employee, or independent contractor; or

(2) A certificate signed by the employee, prospective employee, or independent contractor stating the employee's, prospective employee's, or independent contractor's religious, philosophical, or moral beliefs are opposed to such immunization.

1 **SECTION 3. REPEAL.** Section 23-12-20 of the North Dakota Century Code and section 2
2 of this Act are repealed.

3 **SECTION 4. EFFECTIVE DATE.** Section 3 of this Act becomes effective August 1, 2023.

4 The remainder of this Act becomes effective upon its filing with the secretary of state.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1511

Page 2, line 7, after "state" insert "or doing business in this state"

Page 2, line 7, after "patron" insert ", client,"

Page 2, line 7, after "customer" insert "in this state"

Page 2, line 10, remove the overstrike over "~~This subsection~~"

Page 2, line 11, remove the overstrike over "~~does not apply to a health care provider~~" and insert immediately thereafter an underscored comma

Page 2, line 11, remove the overstrike over "~~including a long term care provider.~~" and insert immediately thereafter "As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service."

Page 2, line 22, remove "5."

Page 2, line 22, overstrike "This section"

Page 2, line 23, remove "does not apply to the"

Page 2, remove lines 24 through 26

Page 2, line 27, replace "6." with "5."

Page 3, line 5, replace "in this state" with "or contractor"

Page 3, line 5, replace "or" with an underscored comma

Page 3, line 5, after the second "employee" insert ", or independent contractor in this state"

Page 3, line 6, after "employment" insert "or a term of a contract"

Page 3, line 7, after "employer" insert "or contractor"

Page 3, line 7, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 8, replace "twelve" with "six"

Page 3, line 10, after "employer" insert "or contractor"

Page 3, line 10, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 11, remove "Under this subdivision, the"

Page 3, remove lines 12 and 13

Page 3, line 14, after "employer" insert "or contractor"

Page 3, line 14, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 16, after "a" insert "North Dakota"

Page 3, line 16, after "physician" insert "or advanced practice registered nurse"

Page 3, line 17, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 18, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 19, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 19, after "employee's" insert ", prospective employee's, or independent contractor's"

Renumber accordingly

21.1105.01011
Title.

Prepared by the Legislative Council staff for
Senator Anderson
November 10, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1511

Page 2, line 7, overstrike "A private business located in this state may not require a patron or customer to"

Page 2, line 8, overstrike "provide any documentation certifying"

Page 2, line 8, remove "COVID-19"

Page 2, line 8, overstrike "vaccination"

Page 2, line 8, remove ", the presence of"

Page 2, remove line 9

Page 2, line 10, overstrike "recovery to gain access to, entry upon, or services from the business."

Page 2, line 12, overstrike "3."

Page 2, line 15, overstrike "4."

Page 2, line 20, after "5-" insert "3."

Page 2, line 22, replace "5." with "4."

Page 2, line 27, replace "6." with "5."

Page 3, after line 20, insert:

"3. Notwithstanding subsection 2, a provider of developmental disability services or a provider of health care services, including a long-term care provider, basic care provider, and assisted living provider, may require an employee or prospective employee to be vaccinated against COVID-19 as a condition of employment. If an employer required vaccination under this subsection, the employer shall allow a medical exemption and a religious exemption as provided under federal law."

Renumber accordingly

21.1105.01013

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1511

Introduced by

Representatives Weisz, Becker, Devlin, Lefor, Meier, Paulson, Porter, Schauer

Senators Lee, Wardner

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to create and enact a new section to chapter 34-03 of the North Dakota
2 Century Code, relating to employer-required COVID-19 vaccinations; to amend and reenact
3 ~~section~~sections 23-01-05.3 and 23-12-20 of the North Dakota Century Code, relating to vaccine
4 passports and limitations on requiring documentation of COVID-19 vaccinations, antibodies,
5 and post-transmission recovery status; to repeal section 23-12-20 of the North Dakota Century
6 Code and section 2 of this Act, relating to limitations on requiring documentation of COVID-19
7 vaccinations, antibodies, and post-transmission recovery status and employer-required COVID-
8 19 vaccinations; and to provide an effective date.

9 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

10 **SECTION 1. AMENDMENT.** Section 23-01-05.3 of the North Dakota Century Code is
11 amended and reenacted as follows:
12 **23-01-05.3. Immunization data. (Effective through August 31, 2022)**
13 1. The state department of health may establish an immunization information system and
14 may require the childhood immunizations specified in subsection 1 of section
15 23-07-17.1 and other information be reported to the department. The state department
16 of health may only require the reporting of childhood immunizations and other data
17 upon completion of the immunization information reporting system. A health care
18 provider who administers a childhood immunization shall report the patient's
19 identifying information, the immunization that is administered, and other required
20 information to the department. The report must be submitted using electronic media,
21 and must contain the data content and use the format and codes specified by the
22 department.
23 2. If a health care provider fails to submit an immunization report required under this
24 section within four weeks of vaccination:

- 1 a. That health care provider may not order or receive any vaccine from the North
2 Dakota immunization program until that provider submits all reports required
3 under this section.
- 4 b. The state department of health shall make a report to that health care provider's
5 occupational licensing entity outlining that provider's failure to comply with the
6 reporting requirements under this section.
- 7 3. Notwithstanding any other provision of law, a health care provider, elementary or
8 secondary school, early childhood facility, public or private postsecondary educational
9 institution, city or county board of health, district health unit, and the state health officer
10 may exchange immunization data in any manner with one another. Immunization data
11 that may be exchanged under this section is limited to the date and type of
12 immunization administered to a patient and may be exchanged regardless of the date
13 of the immunization.

14 4. The state department of health may not create, administer, provide, or contract for an
15 immunization certificate, such as a vaccine passport or an electronic
16 machine-readable code.

17 **Immunization data. (Effective after August 31, 2022)**

- 18 1. The department of health and human services may establish an immunization
19 information system and may require the childhood immunizations specified in
20 subsection 1 of section 23-07-17.1 and other information be reported to the
21 department. The department of health and human services may only require the
22 reporting of childhood immunizations and other data upon completion of the
23 immunization information reporting system. A health care provider who administers a
24 childhood immunization shall report the patient's identifying information, the
25 immunization that is administered, and other required information to the department.
26 The report must be submitted using electronic media, and must contain the data
27 content and use the format and codes specified by the department.
- 28 2. If a health care provider fails to submit an immunization report required under this
29 section within four weeks of vaccination:

- 1 a. That health care provider may not order or receive any vaccine from the North
- 2 Dakota immunization program until that provider submits all reports required
- 3 under this section.
- 4 b. The department of health and human services shall make a report to that health
- 5 care provider's occupational licensing entity outlining that provider's failure to
- 6 comply with the reporting requirements under this section.
- 7 3. Notwithstanding any other provision of law, a health care provider, elementary or
- 8 secondary school, early childhood facility, public or private postsecondary educational
- 9 institution, city or county board of health, district health unit, and the state health officer
- 10 may exchange immunization data in any manner with one another. Immunization data
- 11 that may be exchanged under this section is limited to the date and type of
- 12 immunization administered to a patient and may be exchanged regardless of the date
- 13 of the immunization.
- 14 4. The department of health and human services may not create, administer, provide, or
- 15 contract for an immunization certificate, such as a vaccine passport or an electronic
- 16 machine-readable code.

17 **SECTION 2. AMENDMENT.** Section 23-12-20 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **23-12-20. VaccineCOVID-19 vaccination and infection information.**

- 20 1. ~~Except as provided under sections 15.1-23-02, 23-01-05.3, and 23-07-17.1,~~
- 21 ~~neither~~Neither a state government entity nor any of its political subdivisions, agents, or
- 22 assigns may:
 - 23 a. Require documentation, whether physical or electronic, for the purpose of
 - 24 certifying or otherwise communicating the following before providing access to
 - 25 ~~state~~ property, funds, or services:
 - 26 (1) An individual's COVID-19 vaccination status;
 - 27 (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - 28 (3) An individual's COVID-19 post-transmission recovery status;
 - 29 b. Otherwise publish or share an individual's COVID-19 vaccination record or similar
 - 30 health information, except as specifically authorized by the individual or otherwise
 - 31 authorized by statute; or

- 1 c. Require a private business to obtain documentation, whether physical or
2 electronic, for purposes of certifying or otherwise communicating the following
3 before employment or providing access to property, funds, or services based on:
4 (1) An individual's COVID-19 vaccination status;
5 (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
6 (3) An individual's COVID-19 post-transmission recovery status.
- 7 2. A private business located in this state may not require a patron or customer to
8 provide any documentation certifying COVID-19 vaccination, the presence of
9 COVID-19 pathogens, antigens, or antibodies, or COVID-19 post-transmission
10 recovery to gain access to, entry upon, or services from the business. ~~This subsection~~
11 ~~does not apply to a health care provider including a long term care provider.~~
- 12 3. This section may not be construed to interfere with an individual's rights to access that
13 individual's own personal health information or with a person's right to access personal
14 health information of others which the person otherwise has a right to access.
- 15 4. ~~Subsection 1 is not applicable to the state board of higher education, the university~~
16 ~~system, or institutions under the control of the state board of higher education to the~~
17 ~~extent the entity has adopted policies and procedures governing the type of~~
18 ~~documentation required, the circumstances under which such documentation may be~~
19 ~~shared, and exemptions from providing such documentation.~~
- 20 5. This section is not applicable during a public health disaster or emergency declared in
21 accordance with chapter 37-17.1.
- 22 6.5. ~~This section is limited in application to a vaccination authorized by the federal food and~~
23 ~~drug administration pursuant to an emergency use authorization~~~~does not apply to the~~
24 extent a federal law, rule, or guidance preempts application, or to the extent
25 application would result in a person incurring direct financial losses due to
26 noncompliance with the federal law, rule, or guidance.
- 27 6. As used in this section, the term "COVID-19" means severe acute respiratory
28 syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral
29 fragments of SARS-CoV-2.

30 **SECTION 3.** A new section to chapter 34-03 of the North Dakota Century Code is created
31 and enacted as follows:

1 **COVID-19 vaccination requirements - Exemptions.**

2 1. As used in this section, the term "COVID-19" means severe acute respiratory
3 syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral
4 fragments of SARS-CoV-2.

5 2. If an employer in this state requires an employee or prospective employee to be
6 vaccinated against COVID-19 as a condition of employment:

7 a. The employer shall allow the employee to submit proof of COVID-19 antibodies
8 as an exemption to the vaccination requirement. Such proof is valid for twelve
9 months from the date of the antibody test.

10 b. The employer shall allow the employee to submit to periodic COVID-19 tests as
11 an exemption to the vaccination requirement. Under this subdivision, the
12 employer may not require more than two tests per week but the employee may
13 be responsible for the cost of the testing.

14 c. The employer shall allow the employee to submit one of the following certificates
15 as an exemption to the vaccination requirement:

16 (1) A certificate from a licensed physician stating the physical condition of the
17 employee is such that immunization would endanger the life or health of the
18 employee; or

19 (2) A certificate signed by the employee stating the employee's religious,
20 philosophical, or moral beliefs are opposed to such immunization.

21 **SECTION 4. REPEAL.** Section 23-12-20 of the North Dakota Century Code and section ~~23~~
22 of this Act are repealed.

23 **SECTION 5. EFFECTIVE DATE.** Section ~~34~~ of this Act becomes effective August 1, 2023.
24 The remainder of this Act becomes effective upon its filing with the secretary of state.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1511

Page 1, line 3, replace "section" with "sections 23-01-05.3 and"

Page 1, line 3, after "to" insert "vaccine passports and"

Page 1, after line 9, insert:

"SECTION 1. AMENDMENT. Section 23-01-05.3 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.3. Immunization data. (Effective through August 31, 2022)

1. The state department of health may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The state department of health may only require the reporting of childhood immunizations and other data upon completion of the immunization information reporting system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.
2. If a health care provider fails to submit an immunization report required under this section within four weeks of vaccination:
 - a. That health care provider may not order or receive any vaccine from the North Dakota immunization program until that provider submits all reports required under this section.
 - b. The state department of health shall make a report to that health care provider's occupational licensing entity outlining that provider's failure to comply with the reporting requirements under this section.
3. Notwithstanding any other provision of law, a health care provider, elementary or secondary school, early childhood facility, public or private postsecondary educational institution, city or county board of health, district health unit, and the state health officer may exchange immunization data in any manner with one another. Immunization data that may be exchanged under this section is limited to the date and type of immunization administered to a patient and may be exchanged regardless of the date of the immunization.
4. The state department of health may not create, administer, provide, or contract for an immunization certificate, such as a vaccine passport or an electronic machine-readable code.

Immunization data. (Effective after August 31, 2022)

1. The department of health and human services may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The department of health and human services may only require the reporting of childhood immunizations and other data upon completion of the immunization information reporting system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.
2. If a health care provider fails to submit an immunization report required under this section within four weeks of vaccination:
 - a. That health care provider may not order or receive any vaccine from the North Dakota immunization program until that provider submits all reports required under this section.
 - b. The department of health and human services shall make a report to that health care provider's occupational licensing entity outlining that provider's failure to comply with the reporting requirements under this section.
3. Notwithstanding any other provision of law, a health care provider, elementary or secondary school, early childhood facility, public or private postsecondary educational institution, city or county board of health, district health unit, and the state health officer may exchange immunization data in any manner with one another. Immunization data that may be exchanged under this section is limited to the date and type of immunization administered to a patient and may be exchanged regardless of the date of the immunization.
4. The department of health and human services may not create, administer, provide, or contract for an immunization certificate, such as a vaccine passport or an electronic machine-readable code."

Page 3, line 21, replace "2" with "3"

Page 3, line 23, replace "3" with "4"

Renumber accordingly

2021 JOINT STANDING COMMITTEE MINUTES

Technical Corrections Committee Pioneer Room, State Capitol

HB 1511
11/11/2021
PM

A BILL for an Act to create and enact a new section to chapter 34-03 of the North Dakota Century Code, relating to employer-required COVID-19 vaccinations; to amend and reenact section 23-12-20 of the North Dakota Century Code, relating to limitations on requiring documentation of COVID-19 vaccinations, antibodies, and post-transmission recovery status; to repeal section 23-12-20 of the North Dakota Century Code and section 2 of this Act, relating to limitations on requiring documentation of COVID-19 vaccinations, antibodies, and post-transmission recovery status and employer-required COVID-19 vaccinations; and to provide an effective date.

Co-Chair Weisz called the hearing to order, Vice Chair Porter, Representative Dockter, Richter, Louser, O'Brian, Roers Jones, Hanson Co-Chair J. Lee, Vice Chair Patten, Senators H. Anderson, Schaible, Dwyer, Kannianen, Vedaa, Bakke, present [4:48]

Discussion Topics:

- Department of Corrections
- Local Public Health Units
- State Hospital
- Provider testing facility exemptions
- University System federal contracts
- University system athletes
- Vaccine passport QR Codes

Representative Porter submitted an amendment 21.1105.01016 #12252. [4:48]

Representative O'Brien testified on Subsection 3 of 21.1105.01016. [4:52]

Eric Olson, Assistant Attorney General as General Counsel for the North Dakota University System testified. [5:04]

Senator Lee provided testimony from the Universities #12245. [5:06]

Troy Siebel, Chief Deputy Attorney General, North Dakota Attorney General's Office testifies [5:07]

Representative Porter moved amendment 21.1105.01016 with the overstrike removed from page 2 lines 21 to 25 (section 1, subsection 4). [5:17]

Representative Roers Jones seconds

Eric Olson, Assistant Attorney General as General Counsel for the North Dakota University System testified. [5:20]

Motion passed by voice vote. [5:21]

Senator Dwyer moved amendment 21.1105.01013 #12260. 5:22]

Representative Louser seconds

Voice vote inconclusive. Roll call vote held

Senators	Vote
Chair Judy Lee	N
Vice Chair Dale Patten	Y
Senator Howard Anderson	N
Senator Donald Schaible	Y
Senator Michael Dwyer	Y
Senator Jordon Kannianen	Y
Senator Shawn Vedaa	Y
Senator JoNell Bakke	N
Representatives	
Chair Robin Weisz	Y
Vice Chair Todd Porter	Y
Representative Jason Dockter	Y
Representative David Richter	Y
Representative Scott Louser	Y
Representative Emily O'Brien	N
Representative Shannon Roers Jones	N
Representative Karla Rose Hanson	N

Motion passed 10-6-0

Representative Porter moved DO PASS As Amended [5:28]

Representative O'Brien seconds

Senators	Vote
Chair Judy Lee	N
Vice Chair Dale Patten	Y
Senator Howard Anderson	N

Senator Donald Schaible	Y
Senator Michael Dwyer	Y
Senator Jordon Kannianen	Y
Senator Shawn Vedaa	Y
Senator JoNell Bakke	N
Representatives	
Chair Robin Weisz	Y
Vice Chair Todd Porter	Y
Representative Jason Dockter	Y
Representative David Richter	Y
Representative Scott Louser	Y
Representative Emily O'Brien	Y
Representative Shannon Roers Jones	N
Representative Karla Rose Hanson	N

Motion passed 11-5 -0

Co-Chair Weisz adjourned the hearing [5:30]

Senator Dwyer and **Representative Porter** carries

Sheldon Wolf, Committee Clerk

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1511

Page 1, line 24, overstrike "or"

Page 2, line 6, after "status" insert "; or

d. This subsection does not apply to the department of corrections and rehabilitation, a correctional facility as defined under section 12-44.1-01, the state hospital, or a public health unit

Page 2, line 7, after "state" insert "or doing business in this state"

Page 2, line 7, after "patron" insert ", client,"

Page 2, line 7, after "customer" insert "in this state"

Page 2, line 10, remove the overstrike over "~~This subsection~~"

Page 2, line 11, remove the overstrike over "~~does not apply to a~~" and insert immediately thereafter "developmental disability residential facility or a"

Page 2, line 11, remove the overstrike over "~~health care provider~~" and insert immediately thereafter an underscored comma

Page 2, line 11, remove the overstrike over "~~including a long term care provider~~" and insert immediately thereafter ", basic care provider, and assisted living provider"

Page 2, line 11, remove the overstrike over the overstruck period and insert immediately thereafter "As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service."

Page 2, line 22, remove "5."

Page 2, line 22, overstrike "This section"

Page 2, line 23, remove "does not apply to the"

Page 2, remove lines 24 through 26

Page 2, line 27, replace "6." with "5."

Page 3, line 5, replace "in this state" with "or contractor"

Page 3, line 5, replace "or" with an underscored comma

Page 3, line 5, after the second "employee" insert ", or independent contractor in this state"

Page 3, line 6, after "employment" insert "or a term of a contract"

Page 3, line 7, after "employer" insert "or contractor"

Page 3, line 7, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 8, replace "twelve" with "six"

Page 3, line 10, after "employer" insert "or contractor"

Page 3, line 10, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 11, remove "Under this subdivision, the"

Page 3, remove lines 12 and 13

Page 3, line 14, after "employer" insert "or contractor"

Page 3, line 14, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 16, after "a" insert "North Dakota"

Page 3, line 16, after "physician" insert ", physician assistant, or advanced practice registered nurse"

Page 3, line 17, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 18, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 19, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 19, after "employee's" insert ", prospective employee's, or independent contractor's"

Page 3, after line 20, insert:

"3. This section does not apply to the extent an employer or an independent contractor is required to comply with federal law, rules, or guidance resulting from Title 42, Code of Federal Regulations, part 416 et seq. [86 FR 61555 et seq. (2021)]; Title 29, Code of Federal Regulations, part 1910 et seq. [86 FR 61555 et seq. (2021)]; the presidential executive order on ensuring adequate COVID safety protocols for federal contractors, issued September 9, 2021; or any other federal law, rule, or guidance relating to requirements for vaccinations for COVID-19."

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1511

Page 1, line 3, replace "section" with "sections 23-01-05.3 and"

Page 1, line 3, after "to" insert "vaccine passports and"

Page 1, after line 9, insert:

"SECTION 1. AMENDMENT. Section 23-01-05.3 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.3. Immunization data. (Effective through August 31, 2022)

1. The state department of health may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The state department of health may only require the reporting of childhood immunizations and other data upon completion of the immunization information reporting system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.
2. If a health care provider fails to submit an immunization report required under this section within four weeks of vaccination:
 - a. That health care provider may not order or receive any vaccine from the North Dakota immunization program until that provider submits all reports required under this section.
 - b. The state department of health shall make a report to that health care provider's occupational licensing entity outlining that provider's failure to comply with the reporting requirements under this section.
3. Notwithstanding any other provision of law, a health care provider, elementary or secondary school, early childhood facility, public or private postsecondary educational institution, city or county board of health, district health unit, and the state health officer may exchange immunization data in any manner with one another. Immunization data that may be exchanged under this section is limited to the date and type of immunization administered to a patient and may be exchanged regardless of the date of the immunization.
4. The state department of health may not create, administer, provide, or contract for an immunization certificate, such as a vaccine passport or an electronic machine-readable code.

Immunization data. (Effective after August 31, 2022)

1. The department of health and human services may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The department of health and human services may only require the reporting of childhood immunizations and other data upon completion of the immunization information reporting system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.
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 - a. That health care provider may not order or receive any vaccine from the North Dakota immunization program until that provider submits all reports required under this section.
 - b. The department of health and human services shall make a report to that health care provider's occupational licensing entity outlining that provider's failure to comply with the reporting requirements under this section.
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4. The department of health and human services may not create, administer, provide, or contract for an immunization certificate, such as a vaccine passport or an electronic machine-readable code."

Page 3, line 21, replace "2" with "3"

Page 3, line 23, replace "3" with "4"

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1511

Page 1, line 3, replace "section" with "sections 23-01-05.3 and"

Page 1, line 3, after "to" insert "vaccine passports and"

Page 1, after line 9, insert:

"SECTION 1. AMENDMENT. Section 23-01-05.3 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.3. Immunization data. (Effective through August 31, 2022)

1. The state department of health may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The state department of health may only require the reporting of childhood immunizations and other data upon completion of the immunization information reporting system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.
2. If a health care provider fails to submit an immunization report required under this section within four weeks of vaccination:
 - a. That health care provider may not order or receive any vaccine from the North Dakota immunization program until that provider submits all reports required under this section.
 - b. The state department of health shall make a report to that health care provider's occupational licensing entity outlining that provider's failure to comply with the reporting requirements under this section.
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Immunization data. (Effective after August 31, 2022)

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1. The department of health and human services may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The department of health and human services may only require the reporting of childhood immunizations and other data upon completion of the immunization information reporting system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.
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4. The department of health and human services may not create, administer, provide, or contract for an immunization certificate, such as a vaccine passport or an electronic machine-readable code."

Page 2, line 7, after the "2." insert "Subsection 1 does not apply to the department of corrections and rehabilitation, a correctional facility as defined under section 12-44.1-01, the state hospital, or a public health unit.

3."

Page 2, line 7, after "state" insert "or doing business in this state"

Page 2, line 7, after "patron" insert ", client,"

Page 2, line 7, after "customer" insert "in this state"

Page 2, line 10, remove the overstrike over "~~This subsection~~"

Page 2, line 11, remove the overstrike over "~~does not apply to a~~" and insert immediately thereafter "developmental disability residential facility or a"

Page 2, line 11, remove the overstrike over "~~health care provider~~" and insert immediately thereafter an underscored comma

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Page 2, line 11, remove the overstrike over "including a long term care provider" and insert immediately thereafter ", basic care provider, and assisted living provider"

Page 2, line 11, remove the overstrike over the overstruck period and insert immediately thereafter "As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service."

Page 2, line 12, overstrike "3." and insert immediately thereafter "4."

Page 2, line 15, overstrike "4." and insert immediately thereafter "5."

Page 2, line 15, remove the overstrike over "~~Subsection 1 is not applicable to the state board of higher education, the university~~"

Page 2, remove the overstrike over lines 16 through 19

Page 2, line 20, overstrike "5." and insert immediately thereafter "6."

Page 2, line 22, remove "5."

Page 2, line 22, overstrike "This section"

Page 2, line 23, remove "does not apply to the"

Page 2, remove lines 24 through 26

Page 2, line 27, replace "6." with "7."

Page 3, line 5, replace "in this state" with "or contractor"

Page 3, line 5, replace "or" with an underscored comma

Page 3, line 5, after the second "employee" insert ", or independent contractor in this state"

Page 3, line 6, after "employment" insert "or a term of a contract"

Page 3, line 7, after "employer" insert "or contractor"

Page 3, line 7, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 8, replace "twelve" with "six"

Page 3, line 10, after "employer" insert "or contractor"

Page 3, line 10, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 11, remove "Under this subdivision, the"

Page 3, remove lines 12 and 13

Page 3, line 14, after "employer" insert "or contractor"

Page 3, line 14, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 16, after "a" insert "North Dakota"

Page 3, line 16, after "physician" insert ", physician assistant, or advanced practice registered nurse"

Page 3, line 17, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 18, after "employee" insert ", prospective employee, or independent contractor"

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9081

Page 3, line 19, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 19, after "employee's" insert ", prospective employee's, or independent contractor's"

Page 3, after line 20, insert:

"3. This section does not apply to the extent an employer or an independent contractor is required to comply with federal law, rules, or guidance relating to requirements for vaccinations for COVID-19 or resulting from Title 42, Code of Federal Regulations, part 416 et seq. [86 FR 61555 et seq. (2021)]; Title 29, Code of Federal Regulations, part 1910 et seq. [86 FR 61555 et seq. (2021)]; or the presidential executive order on ensuring adequate COVID safety protocols for federal contractors, issued September 9, 2021."

Page 3, line 21, replace "2" with "3"

Page 3, line 23, replace "3" with "4"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1511: Joint Technical Corrections Committee (Rep. Weisz, Co-Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (11 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1511 was placed
on the Sixth order on the calendar.

Page 1, line 3, replace "section" with "sections 23-01-05.3 and"

Page 1, line 3, after "to" insert "vaccine passports and"

Page 1, after line 9, insert:

"SECTION 1. AMENDMENT. Section 23-01-05.3 of the North Dakota
Century Code is amended and reenacted as follows:

23-01-05.3. Immunization data. (Effective through August 31, 2022)

1. The state department of health may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The state department of health may only require the reporting of childhood immunizations and other data upon completion of the immunization information reporting system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.
2. If a health care provider fails to submit an immunization report required under this section within four weeks of vaccination:
 - a. That health care provider may not order or receive any vaccine from the North Dakota immunization program until that provider submits all reports required under this section.
 - b. The state department of health shall make a report to that health care provider's occupational licensing entity outlining that provider's failure to comply with the reporting requirements under this section.
3. Notwithstanding any other provision of law, a health care provider, elementary or secondary school, early childhood facility, public or private postsecondary educational institution, city or county board of health, district health unit, and the state health officer may exchange immunization data in any manner with one another. Immunization data that may be exchanged under this section is limited to the date and type of immunization administered to a patient and may be exchanged regardless of the date of the immunization.
4. The state department of health may not create, administer, provide, or contract for an immunization certificate, such as a vaccine passport or an electronic machine-readable code.

Immunization data. (Effective after August 31, 2022)

1. The department of health and human services may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The department of health and human services may only require the reporting of childhood immunizations and other data upon completion of the immunization

- information reporting system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.
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 4. The department of health and human services may not create, administer, provide, or contract for an immunization certificate, such as a vaccine passport or an electronic machine-readable code.

Page 2, line 7, after the "2." insert "Subsection 1 does not apply to the department of corrections and rehabilitation, a correctional facility as defined under section 12-44.1-01, the state hospital, or a public health unit.

3."

Page 2, line 7, after "state" insert "or doing business in this state"

Page 2, line 7, after "patron" insert ", client,"

Page 2, line 7, after "customer" insert "in this state"

Page 2, line 10, remove the overstrike over "~~This subsection~~"

Page 2, line 11, remove the overstrike over "~~does not apply to a~~" and insert immediately thereafter "developmental disability residential facility or a"

Page 2, line 11, remove the overstrike over "~~health care provider~~" and insert immediately thereafter an underscored comma

Page 2, line 11, remove the overstrike over "~~including a long-term care provider~~" and insert immediately thereafter ", basic care provider, and assisted living provider"

Page 2, line 11, remove the overstrike over the overstruck period and insert immediately thereafter "As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service."

Page 2, line 12, overstrike "3." and insert immediately thereafter "4."

Page 2, line 15, overstrike "4." and insert immediately thereafter "5."

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Page 2, line 22, remove "5."

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Page 2, remove lines 24 through 26

Page 2, line 27, replace "6." with "7."

Page 3, line 5, replace "in this state" with "or contractor"

Page 3, line 5, replace "or" with an underscored comma

Page 3, line 5, after the second "employee" insert ", or independent contractor in this state"

Page 3, line 6, after "employment" insert "or a term of a contract"

Page 3, line 7, after "employer" insert "or contractor"

Page 3, line 7, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 8, replace "twelve" with "six"

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Page 3, line 19, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 19, after "employee's" insert ", prospective employee's, or independent contractor's"

Page 3, after line 20, insert:

"3. This section does not apply to the extent an employer or an independent contractor is required to comply with federal law, rules, or guidance relating to requirements for vaccinations for COVID-19 or resulting from Title 42, Code of Federal Regulations, part 416 et seq. [86 FR 61555 et seq. (2021)]; Title 29, Code of Federal Regulations, part 1910 et seq. [86 FR 61555 et seq. (2021)]; or the presidential executive order on ensuring adequate COVID safety protocols for federal contractors, issued September 9, 2021."

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Page 3, line 23, replace "3" with "4"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1511: Joint Technical Corrections Committee (Sen. Lee, Co-Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1511 was placed on the Sixth order on the calendar.

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Page 1, after line 9, insert:

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23-01-05.3. Immunization data. (Effective through August 31, 2022)

1. The state department of health may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The state department of health may only require the reporting of childhood immunizations and other data upon completion of the immunization information reporting system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.
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3. Notwithstanding any other provision of law, a health care provider, elementary or secondary school, early childhood facility, public or private postsecondary educational institution, city or county board of health, district health unit, and the state health officer may exchange immunization data in any manner with one another. Immunization data that may be exchanged under this section is limited to the date and type of immunization administered to a patient and may be exchanged regardless of the date of the immunization.
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Page 2, line 7, after the "2." insert "Subsection 1 does not apply to the department of corrections and rehabilitation, a correctional facility as defined under section 12-44.1-01, the state hospital, or a public health unit.

3."

Page 2, line 7, after "state" insert "or doing business in this state"

Page 2, line 7, after "patron" insert ", client,"

Page 2, line 7, after "customer" insert "in this state"

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Page 3, line 16, after "a" insert "North Dakota"

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Page 3, line 18, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 19, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 19, after "employee's" insert ", prospective employee's, or independent contractor's"

Page 3, after line 20, insert:

- "3. This section does not apply to the extent an employer or an independent contractor is required to comply with federal law, rules, or guidance relating to requirements for vaccinations for COVID-19 or resulting from Title 42, Code of Federal Regulations, part 416 et seq. [86 FR 61555 et seq. (2021)]; Title 29, Code of Federal Regulations, part 1910 et seq. [86 FR 61555 et seq. (2021)]; or the presidential executive order on ensuring adequate COVID safety protocols for federal contractors, issued September 9, 2021."

Page 3, line 21, replace "2" with "3"

Page 3, line 23, replace "3" with "4"

Renumber accordingly

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1511

Introduced by

Representatives Weisz, Becker, Devlin, Lefor, Meier, Paulson, Porter, Schauer

Senators Lee, Wardner

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to create and enact a new section to chapter 34-03 of the North Dakota
2 Century Code, relating to employer-required COVID-19 vaccinations; to amend and reenact
3 section 23-12-20 of the North Dakota Century Code, relating to limitations on requiring
4 documentation of COVID-19 vaccinations, antibodies, and post-transmission recovery status; to
5 repeal section 23-12-20 of the North Dakota Century Code and section 2 of this Act, relating to
6 limitations on requiring documentation of COVID-19 vaccinations, antibodies, and post-
7 transmission recovery status and employer-required COVID-19 vaccinations; and to provide an
8 effective date.

9 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

10 **SECTION 1. AMENDMENT.** Section 23-12-20 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **23-12-20. ~~Vaccine~~COVID-19 vaccination and infection information.**

- 13 1. ~~Except as provided under sections 15-1-23-02, 23-01-05.3, and 23-07-17.1,~~
14 ~~neither~~Neither a state government entity nor any of its political subdivisions, agents, or
15 assigns may:
- 16 a. Require documentation, whether physical or electronic, for the purpose of
17 certifying or otherwise communicating the following before providing access to
18 ~~state~~ property, funds, or services:
- 19 (1) An individual's COVID-19 vaccination status;
20 (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
21 (3) An individual's COVID-19 post-transmission recovery status;
- 22 b. Otherwise publish or share an individual's COVID-19 vaccination record or similar
23 health information, except as specifically authorized by the individual or otherwise
24 authorized by statute; ~~or~~

- 1 c. Require a private business to obtain documentation, whether physical or
2 electronic, for purposes of certifying or otherwise communicating the following
3 before employment or providing access to property, funds, or services based on:
4 (1) An individual's COVID-19 vaccination status;
5 (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
6 (3) An individual's COVID-19 post-transmission recovery status; or
7 d. This subsection does not apply to the department of corrections and
8 rehabilitation, a correctional facility as defined under section 12-44.1-01, the state
9 hospital, or a public health unit.
- 10 2. A private business located in this state or doing business in this state may not require
11 a patron, client, or customer in this state to provide any documentation certifying
12 COVID-19 vaccination, the presence of COVID-19 pathogens, antigens, or antibodies,
13 or COVID-19 post-transmission recovery to gain access to, entry upon, or services
14 from the business. This subsection does not apply to a developmental disability
15 residential facility or a health care provider, including a long-term care provider, basic
16 care provider, and assisted living provider. As used in this subsection, a private
17 business does not include a nonprofit entity that does not sell a product or a service.
- 18 3. This section may not be construed to interfere with an individual's rights to access that
19 individual's own personal health information or with a person's right to access personal
20 health information of others which the person otherwise has a right to access.
- 21 4. ~~Subsection 1 is not applicable to the state board of higher education, the university~~
22 ~~system, or institutions under the control of the state board of higher education to the~~
23 ~~extent the entity has adopted policies and procedures governing the type of~~
24 ~~documentation required, the circumstances under which such documentation may be~~
25 ~~shared, and exemptions from providing such documentation.~~
- 26 5. This section is not applicable during a public health disaster or emergency declared in
27 accordance with chapter 37-17.1.
- 28 ~~6.5. This section is limited in application to a vaccination authorized by the federal food~~
29 ~~and drug administration pursuant to an emergency use authorization~~ does not apply to
30 the extent a federal law, rule, or guidance preempts application, or to the extent

~~application would result in a person incurring direct financial losses due to
noncompliance with the federal law, rule, or guidance.~~

~~6.5.~~ As used in this section, the term "COVID-19" means severe acute respiratory
syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral
fragments of SARS-CoV-2.

SECTION 2. A new section to chapter 34-03 of the North Dakota Century Code is created
and enacted as follows:

COVID-19 vaccination requirements - Exemptions.

1. As used in this section, the term "COVID-19" means severe acute respiratory
syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral
fragments of SARS-CoV-2.
2. If an employer ~~in this state~~ or contractor requires an employee ~~or~~ prospective
employee, or independent contractor in this state to be vaccinated against COVID-19
as a condition of employment or a term of a contract:
 - a. The employer or contractor shall allow the employee, prospective employee, or
independent contractor to submit proof of COVID-19 antibodies as an exemption
to the vaccination requirement. Such proof is valid for ~~twelve~~six months from the
date of the antibody test.
 - b. The employer or contractor shall allow the employee, prospective employee, or
independent contractor to submit to periodic COVID-19 tests as an exemption to
the vaccination requirement. ~~Under this subdivision, the employer may not
require more than two tests per week but the employee may be responsible for
the cost of the testing.~~
 - c. The employer or contractor shall allow the employee, prospective employee, or
independent contractor to submit one of the following certificates as an
exemption to the vaccination requirement:
 - (1) A certificate from a North Dakota licensed physician, physician assistant, or
advanced practice registered nurse stating the physical condition of the
employee, prospective employee, or independent contractor is such that
immunization would endanger the life or health of the employee,
prospective employee, or independent contractor; or

1 (2) A certificate signed by the employee, prospective employee, or independent
2 contractor stating the employee's, prospective employee's, or independent
3 contractor's religious, philosophical, or moral beliefs are opposed to such
4 immunization.

5 3. This section does not apply to the extent an employer or an independent contractor is
6 required to comply with federal law, rules, or guidance resulting from Title 42, Code of
7 Federal Regulations, part 416 et seq. [86 FR 61555 et seq. (2021)]; Title 29, Code of
8 Federal Regulations, part 1910 et seq. [86 FR 61555 et seq. (2021)]; the presidential
9 executive order on ensuring adequate COVID safety protocols for federal contractors,
10 issued September 9, 2021; or any other federal law, rule, or guidance relating to
11 requirements for vaccinations for COVID-19.

12 **SECTION 3. REPEAL.** Section 23-12-20 of the North Dakota Century Code and section 2
13 of this Act are repealed.

14 **SECTION 4. EFFECTIVE DATE.** Section 3 of this Act becomes effective August 1, 2023.
15 The remainder of this Act becomes effective upon its filing with the secretary of state.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1511

Page 1, line 24, overstrike "or"

Page 2, line 6, after "status" insert "; or

d. This subsection does not apply to the department of corrections and rehabilitation, a correctional facility as defined under section 12-44.1-01, the state hospital, or a public health unit

Page 2, line 7, after "state" insert "or doing business in this state"

Page 2, line 7, after "patron" insert ", client,"

Page 2, line 7, after "customer" insert "in this state"

Page 2, line 10, remove the overstrike over "~~This subsection~~"

Page 2, line 11, remove the overstrike over "~~does not apply to a~~" and insert immediately thereafter "developmental disability residential facility or a"

Page 2, line 11, remove the overstrike over "~~health care provider~~" and insert immediately thereafter an underscored comma

Page 2, line 11, remove the overstrike over "~~including a long-term care provider~~" and insert immediately thereafter ", basic care provider, and assisted living provider"

Page 2, line 11, remove the overstrike over the overstruck period and insert immediately thereafter "As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service."

Page 2, line 22, remove "5."

Page 2, line 22, overstrike "This section"

Page 2, line 23, remove "does not apply to the"

Page 2, remove lines 24 through 26

Page 2, line 27, replace "6." with "5."

Page 3, line 5, replace "in this state" with "or contractor"

Page 3, line 5, replace "or" with an underscored comma

Page 3, line 5, after the second "employee" insert ", or independent contractor in this state"

Page 3, line 6, after "employment" insert "or a term of a contract"

Page 3, line 7, after "employer" insert "or contractor"

Page 3, line 7, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 8, replace "twelve" with "six"

Page 3, line 10, after "employer" insert "or contractor"

Page 3, line 10, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 11, remove "Under this subdivision, the"

Page 3, remove lines 12 and 13

Page 3, line 14, after "employer" insert "or contractor"

Page 3, line 14, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 16, after "a" insert "North Dakota"

Page 3, line 16, after "physician" insert ", physician assistant, or advanced practice registered nurse"

Page 3, line 17, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 18, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 19, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 19, after "employee's" insert ", prospective employee's, or independent contractor's"

Page 3, after line 20, insert:

"3. This section does not apply to the extent an employer or an independent contractor is required to comply with federal law, rules, or guidance resulting from Title 42, Code of Federal Regulations, part 416 et seq. [86 FR 61555 et seq. (2021)]; Title 29, Code of Federal Regulations, part 1910 et seq. [86 FR 61555 et seq. (2021)]; the presidential executive order on ensuring adequate COVID safety protocols for federal contractors, issued September 9, 2021; or any other federal law, rule, or guidance relating to requirements for vaccinations for COVID-19."

Renumber accordingly

NDLA, S TRN - Wolf, Sheldon

From: Lee, Judy E.
Sent: Thursday, November 11, 2021 1:09 PM
To: NDLA, S TRN - Wolf, Sheldon
Subject: FW: 1511

Please print for committee members.

Senator Judy Lee
 1822 Brentwood Court
 West Fargo, ND 58078
 Home phone: 701-282-6512
 Email: jlee@nd.gov

From: Bresciani, Dean <dean.bresciani@ndsu.edu>
Sent: Thursday, November 11, 2021 12:22 PM
To: Lee, Judy E. <jlee@nd.gov>
Cc: Armacost, Andrew <andrew.armacost@und.edu>
Subject: 1511

***** **CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *****

Senator Lee-

President Armacost and I are in complete agreement that extraordinary and substantial damage will be done unless the bill incorporates the following:

Section 1 SubSection 4 needs to be unstruck – This one will hurt our ability to keep campuses' safe and will hurt our nursing/medical programs because we have to report to those training sites about our students vaccination status. It was the self-reported data that allowed campuses to return to in-person learning so quickly.

Section 1 SubSection 5 needs to be retained (not struck) – Failure to provide an exemption for higher education institutions that are following federal rules/guidance will prevent NDSU and UND from entering into federal contracts and potentially certain grants. This will result in devastated research productivity, the loss of tens of millions of dollars at each research universities, and substantial implications at many other campuses, and will very likely lead to significant staffing reductions.

Dr. Dean Bresciani

Dean L. Bresciani, President
NORTH DAKOTA STATE UNIVERSITY
 MEMBER OF THE 11 CAMPUS NORTH DAKOTA UNIVERSITY SYSTEM

102 Old Main
 Dept. 1000, PO Box 6050
 Fargo, ND 58108-6050
 Office 701.231.7211

dean.bresciani@ndsu.edu
<https://www.facebook.com/dean.bresciani>
 twitter: NDSU14President

NDLA, S TRN - Wolf, Sheldon

From: Lee, Judy E.
Sent: Thursday, November 11, 2021 1:07 PM
To: NDLA, S TRN - Wolf, Sheldon
Subject: FW: Implications of H.B. 1511

Please print for committee

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
Home phone: 701-282-6512
Email: jlee@nd.gov

From: Fitzsimmons, Katie <katie.fitzsimmons@ndus.edu>
Sent: Thursday, November 11, 2021 12:39 PM
To: Lee, Judy E. <jlee@nd.gov>; Weisz, Robin L. <rweisz@nd.gov>
Cc: Johnson, Lisa A. <lisa.a.johnson@ndus.edu>; Olson, Eric D. <edolson@nd.gov>; Rostad, Jerry <jerry.rostad@ndus.edu>; Hagerott, Mark <mark.hagerott@ndus.edu>; Krebsbach, David <david.krebsbach@ndus.edu>; Meyer, Terry J. <terry.meyer@ndus.edu>
Subject: FW: Implications of H.B. 1511

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Co-chairs Lee and Weisz:

The North Dakota University System respectfully requests the exemption for high education be restored in the bill (page 2, lines 15-19), for these reasons. Without the exemption, the institutions risk participation in athletics and contracts as well as operating in person; which would have profound impacts on all of our eleven institutions. In short, we need the ability to handle information regarding COVID-19, most of which is self-reported, in order to operate to the best extent possible. Our legal counsel, Eric Olson, will be available for explanation, if necessary.

1. The NDUS has been able to significantly narrow the intrusiveness of its COVID measures by emphasizing vaccination and testing, and by providing those who have voluntarily become vaccinated to supply proof of vaccination to avoid certain mitigation measures. Throughout, NDUS has never imposed a testing mandate or a vaccination mandate, but those have been tools that were used in determining that NDUS institutions could return to normal instruction this semester, rather than the hybrid/distance/remote learning strategies of last year. Without the ability to collect testing and vaccination status in the event of another breakthrough or variant, campuses may be forced to either close to in-person instruction, or to limit class sizes and require some students to take at least some of their classes remotely. This would likely lead to a drop in enrollment and student success rates, as was seen across the country during last year's more significant mitigation measures. This could also lead to problems with requirements imposed by outside entities, such as out-of-state hospitals who require interns and residents placed in their facilities to be vaccinated, or athletic conferences who may require vaccination or testing of athletes. It could also cause issues with collecting vaccination and testing status related to international students or for study abroad programs, where travel may require the institution to request proof of testing or vaccination.

2. Removing the federal preemption and direct loss language included in paragraph 5 (as presented to delayed bills, and as would be removed under some proposed amendments) would significantly harm NDUS institutions, in particular UND and NDSU, as federal preemption does not necessarily apply to contracts. NDUS institutions may be required to terminate contracts if they cannot demonstrate compliance with federal vaccine requirements due to a state law prohibition on collecting that information, as federal law does not require campuses to maintain or renew contracts. If the federal contractor vaccine mandate survives litigation, then NDUS institutions may be forced to terminate these contracts, which could result in, conservatively, a \$40-50 million loss annually at UND and NDSU alone.

Katie Fitzsimmons (she/hers)

Director of Student Affairs

NORTH DAKOTA
University System

600 E Boulevard Ave, Dept 215

Bismarck, ND 58505-0230

☎: 701-328-4109

✉: katie.fitzsimmons@ndus.edu

🌐: ndus.edu

From: Olson, Eric D. <edolson@nd.gov>

Sent: Thursday, November 11, 2021 12:27 PM

To: Fitzsimmons, Katie <katie.fitzsimmons@ndus.edu>

Cc: Johnson, Lisa <lisa.a.johnson@ndus.edu>; Hagerott, Mark <mark.hagerott@ndus.edu>; Meyer, Terry <terry.meyer@ndus.edu>; Rostad, Jerry <jerry.rostad@ndus.edu>

Subject: Implications of H.B. 1511

Katie -

Here are my concerns on the elimination of both the NDUS exemption and the federal preemption language in paragraph 5.

I will be present for this afternoon's hearings if issues arise or you have further questions.

Thanks,

Eric

Eric D. Olson

Assistant Attorney General

Office of Attorney General

600 Boulevard Ave., Dept. 125

Bismarck, ND 58505-0040

Phone: 701-328-3611

Fax: 701-328-2226

License No: 09193

edolson@nd.gov

NDLA, S TRN - Wolf, Sheldon

From: Lee, Judy E.
Sent: Thursday, November 11, 2021 11:51 AM
To: NDLA, S TRN - Wolf, Sheldon
Subject: FW: NDUS Exemptions

Please print for all committee members.

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
Home phone: 701-282-6512
Email: jlee@nd.gov

From: Fitzsimmons, Katie <katie.fitzsimmons@ndus.edu>
Sent: Thursday, November 11, 2021 10:57 AM
To: Weisz, Robin L. <rweisz@nd.gov>; Lee, Judy E. <jlee@nd.gov>
Subject: Fwd: NDUS Exemptions

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Co-chairs Lee and Weisz:

This message is from our legal counsel (see below). Rep. Porter's amendments put the University System in a precarious position. We respectfully ask for the higher Ed exemption (lines 15-19 on page 2) to be restored.

Sincerely,
Katie Fitzsimmons
NDUS Director of Student Affairs

Sent from my iPhone

Begin forwarded message:

From: "Fitzsimmons, Katie" <katie.fitzsimmons@ndus.edu>
Date: November 11, 2021 at 10:52:01 AM CST
To: sroersjones@nd.gov, krhanson@nd.gov, jbakke@nd.gov
Subject: Fwd: NDUS Exemptions

Representatives and Senators:
This is from our legal counsel in regards to Rep. Porter's proposed amendments. We respectfully ask for the NDUS exemption to be restored.

-Katie Fitzsimmons, NDUS

Sent from my iPhone

Begin forwarded message:

From: "Olson, Eric D." <edolson@nd.gov>
Date: November 11, 2021 at 10:47:21 AM CST
To: "Fitzsimmons, Katie" <katie.fitzsimmons@ndus.edu>
Subject: NDUS Exemptions

Katie -

NDUS contracts would not be preempted by federal law - it would force NDUS to terminate those contracts without paragraph 5, as there is no federal law requiring NDUS to keep contracts. Instead, without the ability to comply with the vaccination requirement, they would be forced to terminate.

Without the NDUS exemption, the bill would bar NDUS institutions from requiring documentation of testing or vaccination for any reason - institutions would no longer be able to engage in mitigation efforts which utilize testing (including antibody testing) or vaccination status. Campuses would be forced to go back to limiting class size and hybrid (partial in person and partial digital) instruction.

Eric

NDLA, S TRN - Wolf, Sheldon

From: Lee, Judy E.
Sent: Thursday, November 11, 2021 1:15 PM
To: NDLA, S TRN - Wolf, Sheldon
Subject: FW: State Hospital CMS status

Please print for committee members.

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
Home phone: 701-282-6512
Email: jlee@nd.gov

From: Lee, Judy E. <jlee@nd.gov>
Sent: Thursday, November 11, 2021 1:15 PM
To: Lee, Judy E. <jlee@nd.gov>
Subject: State Hospital CMS status

Senator Lee, this is Rosalie Etherington. I understand that you are considering amendments for 1511. I wanted to inform you that all psychiatric residential treatment facilities of North Dakota fall under the CMS rule

Senator Judy Lee

NDLA, S TRN - Wolf, Sheldon

From: Lee, Judy E.
Sent: Thursday, November 11, 2021 1:15 PM
To: NDLA, S TRN - Wolf, Sheldon
Subject: FW: State Hospital CMS status

Please print for committee members.

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
Home phone: 701-282-6512
Email: jlee@nd.gov

From: Lee, Judy E. <jlee@nd.gov>
Sent: Thursday, November 11, 2021 1:15 PM
To: Lee, Judy E. <jlee@nd.gov>
Subject: State Hospital CMS status

Senator Lee, this is Rosalie Etherington. I understand that you are considering amendments for 1511. I wanted to inform you that all psychiatric residential treatment facilities of North Dakota fall under the CMS rule

Senator Judy Lee

NDLA, S TRN - Wolf, Sheldon

From: Lee, Judy E.
Sent: Thursday, November 11, 2021 1:40 PM
To: NDLA, S TRN - Wolf, Sheldon
Subject: FW: Philosophical/Moral Exemption -- Health Care

Please print this for committee members.

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
Home phone: 701-282-6512
Email: jlee@nd.gov

From: Levi Andrist <landrist@gagroup.law>
Sent: Thursday, November 11, 2021 1:25 PM
To: Lee, Judy E. <jlee@nd.gov>
Cc: Weisz, Robin L. <rweisz@nd.gov>; Porter, Todd K. <tkporter@nd.gov>; Clark, Jennifer S. <jclark@nd.gov>; Melissa Hauer <mhauer@ndha.org>; Tim Blasl <tim@ndha.org>; Courtney Koebele <courtney@ndmed.com>; Amy Cleary <acleary@gagroup.law>
Subject: Philosophical/Moral Exemption -- Health Care

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Senator Lee (cc: Rep. Porter & Rep. Weisz),

As you requested, after conferring with Melissa Hauer, NDHA's General Counsel, you are correct that a philosophical exemption already exists in state law, but only in the context of childhood/minor immunizations related to school—not voluntary, at-will employment of adults, which is what section 2 of the bill addresses. Per Senator Anderson's amendment, which health care fully supports (in addition to Rep. Porter's amendments to section 1 of the bill), health care organizations support the exemptions in the bill to mirror those in federal law—medical exemptions and religious exemptions.

I've copied the code section below for ease of reference. I've also copied Jenn Clark of Legislative Council, who's input on existing state law is welcome.

Best,
Levi

NDCC 23-07-17.1(3) – Any minor child, through the child's parent or guardian, may submit to the institution authorities either a certificate from a licensed physician stating that the physical condition of the child is such that immunization would endanger the life or health of the child or a certificate signed by the child's parent or guardian whose religious, *philosophical, or moral beliefs* are opposed to such immunization. The minor child is then exempt from the provisions of this section.

Levi Andrist
GA Group, PC

1661 Capitol Way
Bismarck, ND 58501
(701) 240-3372
landrist@gagroup.law
www.gagroup.law

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21.1105.01013

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1511

Introduced by

Representatives Weisz, Becker, Devlin, Lefor, Meier, Paulson, Porter, Schauer

Senators Lee, Wardner

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to create and enact a new section to chapter 34-03 of the North Dakota
2 Century Code, relating to employer-required COVID-19 vaccinations; to amend and reenact
3 ~~section~~sections 23-01-05.3 and 23-12-20 of the North Dakota Century Code, relating to vaccine
4 passports and limitations on requiring documentation of COVID-19 vaccinations, antibodies,
5 and post-transmission recovery status; to repeal section 23-12-20 of the North Dakota Century
6 Code and section 2 of this Act, relating to limitations on requiring documentation of COVID-19
7 vaccinations, antibodies, and post-transmission recovery status and employer-required COVID-
8 19 vaccinations; and to provide an effective date.

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

10 **SECTION 1. AMENDMENT.** Section 23-01-05.3 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **23-01-05.3. Immunization data. (Effective through August 31, 2022)**

- 13 1. The state department of health may establish an immunization information system and
14 may require the childhood immunizations specified in subsection 1 of section
15 23-07-17.1 and other information be reported to the department. The state department
16 of health may only require the reporting of childhood immunizations and other data
17 upon completion of the immunization information reporting system. A health care
18 provider who administers a childhood immunization shall report the patient's
19 identifying information, the immunization that is administered, and other required
20 information to the department. The report must be submitted using electronic media,
21 and must contain the data content and use the format and codes specified by the
22 department.
- 23 2. If a health care provider fails to submit an immunization report required under this
24 section within four weeks of vaccination:

- 1 a. That health care provider may not order or receive any vaccine from the North
- 2 Dakota immunization program until that provider submits all reports required
- 3 under this section.
- 4 b. The state department of health shall make a report to that health care provider's
- 5 occupational licensing entity outlining that provider's failure to comply with the
- 6 reporting requirements under this section.
- 7 3. Notwithstanding any other provision of law, a health care provider, elementary or
- 8 secondary school, early childhood facility, public or private postsecondary educational
- 9 institution, city or county board of health, district health unit, and the state health officer
- 10 may exchange immunization data in any manner with one another. Immunization data
- 11 that may be exchanged under this section is limited to the date and type of
- 12 immunization administered to a patient and may be exchanged regardless of the date
- 13 of the immunization.

14 4. The state department of health may not create, administer, provide, or contract for an

15 immunization certificate, such as a vaccine passport or an electronic

16 machine-readable code.

17 **Immunization data. (Effective after August 31, 2022)**

- 18 1. The department of health and human services may establish an immunization
- 19 information system and may require the childhood immunizations specified in
- 20 subsection 1 of section 23-07-17.1 and other information be reported to the
- 21 department. The department of health and human services may only require the
- 22 reporting of childhood immunizations and other data upon completion of the
- 23 immunization information reporting system. A health care provider who administers a
- 24 childhood immunization shall report the patient's identifying information, the
- 25 immunization that is administered, and other required information to the department.
- 26 The report must be submitted using electronic media, and must contain the data
- 27 content and use the format and codes specified by the department.
- 28 2. If a health care provider fails to submit an immunization report required under this
- 29 section within four weeks of vaccination:

- 1 a. That health care provider may not order or receive any vaccine from the North
- 2 Dakota immunization program until that provider submits all reports required
- 3 under this section.
- 4 b. The department of health and human services shall make a report to that health
- 5 care provider's occupational licensing entity outlining that provider's failure to
- 6 comply with the reporting requirements under this section.
- 7 3. Notwithstanding any other provision of law, a health care provider, elementary or
- 8 secondary school, early childhood facility, public or private postsecondary educational
- 9 institution, city or county board of health, district health unit, and the state health officer
- 10 may exchange immunization data in any manner with one another. Immunization data
- 11 that may be exchanged under this section is limited to the date and type of
- 12 immunization administered to a patient and may be exchanged regardless of the date
- 13 of the immunization.
- 14 4. The department of health and human services may not create, administer, provide, or
- 15 contract for an immunization certificate, such as a vaccine passport or an electronic
- 16 machine-readable code.

17 **SECTION 2. AMENDMENT.** Section 23-12-20 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **23-12-20. ~~Vaccine~~COVID-19 vaccination and infection information.**

- 20 1. ~~Except as provided under sections 15.1-23-02, 23-01-05.3, and 23-07-17.1,~~
- 21 ~~neither~~Neither a state government entity nor any of its political subdivisions, agents, or
- 22 assigns may:
 - 23 a. Require documentation, whether physical or electronic, for the purpose of
 - 24 certifying or otherwise communicating the following before providing access to
 - 25 ~~state~~ property, funds, or services:
 - 26 (1) An individual's COVID-19 vaccination status;
 - 27 (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - 28 (3) An individual's COVID-19 post-transmission recovery status;
 - 29 b. Otherwise publish or share an individual's COVID-19 vaccination record or similar
 - 30 health information, except as specifically authorized by the individual or otherwise
 - 31 authorized by statute; or

- 1 c. Require a private business to obtain documentation, whether physical or
2 electronic, for purposes of certifying or otherwise communicating the following
3 before employment or providing access to property, funds, or services based on:
4 (1) An individual's COVID-19 vaccination status;
5 (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
6 (3) An individual's COVID-19 post-transmission recovery status.
- 7 2. A private business located in this state may not require a patron or customer to
8 provide any documentation certifying COVID-19 vaccination, the presence of
9 COVID-19 pathogens, antigens, or antibodies, or COVID-19 post-transmission
10 recovery to gain access to, entry upon, or services from the business. ~~This subsection~~
11 ~~does not apply to a health care provider including a long-term care provider.~~
- 12 3. This section may not be construed to interfere with an individual's rights to access that
13 individual's own personal health information or with a person's right to access personal
14 health information of others which the person otherwise has a right to access.
- 15 4. ~~Subsection 1 is not applicable to the state board of higher education, the university~~
16 ~~system, or institutions under the control of the state board of higher education to the~~
17 ~~extent the entity has adopted policies and procedures governing the type of~~
18 ~~documentation required, the circumstances under which such documentation may be~~
19 ~~shared, and exemptions from providing such documentation.~~
- 20 5. This section is not applicable during a public health disaster or emergency declared in
21 accordance with chapter 37-17.1.
- 22 6.5. ~~This section is limited in application to a vaccination authorized by the federal food and~~
23 ~~drug administration pursuant to an emergency use authorization~~does not apply to the
24 extent a federal law, rule, or guidance preempts application, or to the extent
25 application would result in a person incurring direct financial losses due to
26 noncompliance with the federal law, rule, or guidance.
- 27 6. As used in this section, the term "COVID-19" means severe acute respiratory
28 syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral
29 fragments of SARS-CoV-2.

30 **SECTION 3.** A new section to chapter 34-03 of the North Dakota Century Code is created
31 and enacted as follows:

COVID-19 vaccination requirements - Exemptions.

1. As used in this section, the term "COVID-19" means severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2.
2. If an employer in this state requires an employee or prospective employee to be vaccinated against COVID-19 as a condition of employment:
 - a. The employer shall allow the employee to submit proof of COVID-19 antibodies as an exemption to the vaccination requirement. Such proof is valid for twelve months from the date of the antibody test.
 - b. The employer shall allow the employee to submit to periodic COVID-19 tests as an exemption to the vaccination requirement. Under this subdivision, the employer may not require more than two tests per week but the employee may be responsible for the cost of the testing.
 - c. The employer shall allow the employee to submit one of the following certificates as an exemption to the vaccination requirement:
 - (1) A certificate from a licensed physician stating the physical condition of the employee is such that immunization would endanger the life or health of the employee; or
 - (2) A certificate signed by the employee stating the employee's religious, philosophical, or moral beliefs are opposed to such immunization.

SECTION 4. REPEAL. Section 23-12-20 of the North Dakota Century Code and section ~~23~~ of this Act are repealed.

SECTION 5. EFFECTIVE DATE. Section ~~34~~ of this Act becomes effective August 1, 2023. The remainder of this Act becomes effective upon its filing with the secretary of state.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1511

Page 1, line 3, replace "section" with "sections 23-01-05.3 and"

Page 1, line 3, after "to" insert "vaccine passports and"

Page 1, after line 9, insert:

"SECTION 1. AMENDMENT. Section 23-01-05.3 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.3. Immunization data. (Effective through August 31, 2022)

1. The state department of health may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The state department of health may only require the reporting of childhood immunizations and other data upon completion of the immunization information reporting system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.
2. If a health care provider fails to submit an immunization report required under this section within four weeks of vaccination:
 - a. That health care provider may not order or receive any vaccine from the North Dakota immunization program until that provider submits all reports required under this section.
 - b. The state department of health shall make a report to that health care provider's occupational licensing entity outlining that provider's failure to comply with the reporting requirements under this section.
3. Notwithstanding any other provision of law, a health care provider, elementary or secondary school, early childhood facility, public or private postsecondary educational institution, city or county board of health, district health unit, and the state health officer may exchange immunization data in any manner with one another. Immunization data that may be exchanged under this section is limited to the date and type of immunization administered to a patient and may be exchanged regardless of the date of the immunization.
4. The state department of health may not create, administer, provide, or contract for an immunization certificate, such as a vaccine passport or an electronic machine-readable code.

Immunization data. (Effective after August 31, 2022)

1. The department of health and human services may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The department of health and human services may only require the reporting of childhood immunizations and other data upon completion of the immunization information reporting system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.
2. If a health care provider fails to submit an immunization report required under this section within four weeks of vaccination:
 - a. That health care provider may not order or receive any vaccine from the North Dakota immunization program until that provider submits all reports required under this section.
 - b. The department of health and human services shall make a report to that health care provider's occupational licensing entity outlining that provider's failure to comply with the reporting requirements under this section.
3. Notwithstanding any other provision of law, a health care provider, elementary or secondary school, early childhood facility, public or private postsecondary educational institution, city or county board of health, district health unit, and the state health officer may exchange immunization data in any manner with one another. Immunization data that may be exchanged under this section is limited to the date and type of immunization administered to a patient and may be exchanged regardless of the date of the immunization.
4. The department of health and human services may not create, administer, provide, or contract for an immunization certificate, such as a vaccine passport or an electronic machine-readable code."

Page 3, line 21, replace "2" with "3"

Page 3, line 23, replace "3" with "4"

Renumber accordingly