2023 SENATE HUMAN SERVICES

SB 2274

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2274
2/13/2023

Relating to discrimination based on vaccination status or possession of an immunity passport.

9:30 AM **Madam Chair Lee** called the hearing to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, Hogan** are present.

Discussion Topics:

- Exempt medical care
- Exempt infants

9:31 AM **Senator Clemens District 16 introduced SB 2274** with proposed amendment 23.0920.01001, testimony in favor. #20568, 20598.

9:47 AM **Patricia Leno,** testimony in favor verbally.

9:50 AM **Richard Jenson,** testimony in favor verbally.

9:58 AM **Melissa Hauer**, **General Counsel, North Dakota Hospital Association,** introduced Dr. Danielle Thurtle.

9:58 AM **Dr. Danielle Thurtle, Pediatrician, Sanford Health on behalf of North Dakota Hospital Association,** testimony in opposition. #20569

10:08 AM **Lisa Clute, Executive Officer, First District Health Unit in Minot**, in opposition verbally.

10:11 AM **Molly Howell, Immunization Director, North Dakota Department of Health and Human Services,** testimony in opposition. #20552

10:16 AM **Brenda Stallman, Executive Director, Traill District Health Unit,** testimony in opposition. #20559

10:24 AM **Donna Thronson, North Dakota Medical Association,** introduced **J Patrick Fahn.**

10:25 AM **J Patrick Fahn, Chief Medical Officer, St Alexius Medical Center, on behalf of the North Dakota Medical Association** testimony in opposition. #20607

10:28 AM **Jonathan Alm, General Counsel, ND Department of Health and Human Services** testimony in opposition verbally.

10:30 AM **Andrea Pfennig, Director Government of Affairs,** testimony in opposition. #20614

10:31 AM **Sherry Adams** testimony in opposition verbally,

10:33 AM **Katie Fitzsimmons, Director of Student Affairs, North Dakota University System** testimony in opposition. #20528

10:37 AM **Kylie Hall** online testimony in opposition. #20566

10:43 AM **Nathan Svihovec, Commissioner of Labor, ND Department of Labor and Human Rights,** online testimony in neutral. #20593

Additional written testimony:
Charlton Stanley in favor #20560
Stephen Rossillo in favor #20561
Paul Letvin, Pastor, Submerge Church in favor #20564
Lisa Pulkrabek in favor #20567
Melyssa Howry in favor #20571
Faisal Siddiqui, Physician, CHI St. Alexius Health in opposition #20546
Sandra Tibke, Executive Director, Foundation for a Healthy North Dakota #20565
Parveen Suhara Wahab, Chair, Department of Pediatrics, CHI St. Alexius Health in opposition #20572

10:49 AM **Madam Chair Lee** closed the hearing.

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2274
2/15/2023

Relating to discrimination based on vaccination status or possession of an immunity passport.

9:14 AM **Madam Chair Lee** called the meeting to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, Hogan** are present.

Discussion Topics:

- Continuality
- Amendment

Senator Lee calls for discussion.

Senator Clemens proposed an amendment for discussion. LC23.0920.01002. #20863

Senator Lee moved **DO NOT PASS.**

Senator K. Roers seconded the motion.

Senator Lee withdrew her motion.

Senator K. Roers withdrew seconded motion.

9:45 AM **Molly Howell, Immunization Director, ND Department of Health and Human Services,** provided information verbally.

9:50 AM **Madam Chair Lee** closed the meeting.

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2274
2/15/2023

Relating to discrimination based on vaccination status or possession of an immunity passport.

3:34 PM **Madam Chair Lee** called the meeting to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston** were present**. Senator Hogan** was absent.

Discussion Topics:

- Amendment
- Committee action

Lindsey Pouliot, Legislative Intern, Legislative Council provided amendment #20924

Senator K. Roers moved to hog house the bill and replace with HB 1200 section 3 and add on page 2 line 22 and on page 3 line 8 of that section, or a vaccine under emergency authorization LC 23.0920.01003.

Senator Weston seconded the motion.

Roll call vote.

Senators	Vote
Senator Judy Lee	Y
Senator Sean Cleary	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	AB
Senator Kristin Roers	Y
Senator Kent Weston	Y

Motion passed 5-0-1.

Senator K. Roers moved **DO PASS** as **AMEMDED.**
Senator Clemens seconded the motion.

Roll call vote.

Senators	Vote
Senator Judy Lee	Y
Senator Sean Cleary	Y
Senator David A. Clemens	N
Senator Kathy Hogan	AB
Senator Kristin Roers	Y
Senator Kent Weston	N

Vote: 2-3-1.

(Held open for **Senator Hogan**)
Senator Hogan voted Yes on SB 2274 at 4:15 PM on February 15, 2023.

3:46 PM **Madam Chair Lee** closed the meeting.

Patricia Lahr, Committee Clerk

23.0920.01003
Title.02000

Adopted by the Senate Human Services Committee

February 15, 2023

AK 2-15-23 (1-8)

PROPOSED AMENDMENTS TO SENATE BILL NO. 2274

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 23-12-20 of the North Dakota Century Code, relating to vaccination and infection information.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

23-12-20. COVID-19 vaccination and infection information. (Repealed effective August 1, 2023)

1. Neither a state government entity nor any of its political subdivisions, agents, or assigns may:

   a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to property, funds, or services:

      (1) An individual's COVID-19 vaccination status or vaccination status for a vaccine that is under emergency use authorization from the federal food and drug administration;

      (2) The presence of COVID-19 pathogens, antigens, or antibodies; or

      (3) An individual's COVID-19 post-transmission recovery status;

   b. Otherwise publish or share an individual's COVID-19 vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or

   c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:

      (1) An individual's COVID-19 vaccination status or vaccination status for a vaccine that is under emergency use authorization from the federal food and drug administration;

      (2) The presence of COVID-19 pathogens, antigens, or antibodies; or

      (3) An individual's COVID-19 post-transmission recovery status.

2. 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. A private business located in this state or doing business in this state may not require a patron, client, or customer in this state to provide any documentation certifying COVID-19 vaccination or vaccination authorized by the federal food and drug administration under emergency use authorization, 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. This subsection does not apply to a developmental disability residential facility or a health care provider, including a long-term care provider, basic care provider, and assisted living provider. As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service.

AG 2-15-23 (2-2)

4. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.

5. 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.

6. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.

7. 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."

Renumber accordingly

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2274
2/15/2023

Relating to discrimination based on vaccination status or possession of an immunity passport.

4:15 PM **Madam Chair Lee** called the meeting to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, Hogan** are present.

Discussion Topics:

- Committee action
- Amendment
- Exempt medical care

4:15 PM Vote held on 2/15/2023 at 3:34 PM, whereby Senator Roers moved DO PASS as Amended and Senator Clemens seconded, included all Senators except **Senator Hogan.** At this time, **Senator Hogan** voted **NO** on **DO PASS** as Amended on SB 2274.

Final vote.

Senators	Vote
Senator Judy Lee	N
Senator Sean Cleary	N
Senator David A. Clemens	Y
Senator Kathy Hogan	N
Senator Kristin Roers	N
Senator Kent Weston	Y

Motion failed 2-4-0.

Senator K. Roers moved **DO NOT PASS** as **AMENDED** on SB 2274.
Senator Cleary seconded.

Roll call vote.

Senators	Vote
Senator Judy Lee	Y
Senator Sean Cleary	Y
Senator David A. Clemens	N
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	N

The motion passed 4-2-0.

Senator K. Roers will carry SB 2274

4:17 PM **Madam Chair Lee** closed the meeting.
Patricia Lahr, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2274: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2274 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 23-12-20 of the North Dakota Century Code, relating to vaccination and infection information.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

23-12-20. COVID-19 vaccination and infection information. (Repealed effective August 1, 2023)

1. Neither a state government entity nor any of its political subdivisions, agents, or assigns may:

   a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to property, funds, or services:

      (1) An individual's COVID-19 vaccination status or vaccination status for a vaccine that is under emergency use authorization from the federal food and drug administration;

      (2) The presence of COVID-19 pathogens, antigens, or antibodies; or

      (3) An individual's COVID-19 post-transmission recovery status;

   b. Otherwise publish or share an individual's COVID-19 vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or

   c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:

      (1) An individual's COVID-19 vaccination status or vaccination status for a vaccine that is under emergency use authorization from the federal food and drug administration;

      (2) The presence of COVID-19 pathogens, antigens, or antibodies; or

      (3) An individual's COVID-19 post-transmission recovery status.

2. 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. A private business located in this state or doing business in this state may not require a patron, client, or customer in this state to provide any documentation certifying COVID-19 vaccination or vaccination authorized by the federal food and drug administration under emergency use authorization, 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. This subsection does not apply to a developmental disability residential facility or a health care provider, including a long-term care provider, basic care provider, and assisted living provider. As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service.

4. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.

5. 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.

6. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.

7. 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."

Renumber accordingly

2023 HOUSE HUMAN SERVICES

SB 2274

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

SB 2274
3/15/2023

Relating to vaccination and infection information.

Chairman Weisz called the meeting to order at 3:45 PM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich. All present.

Discussion Topics:

- Emergency use authorizations
- Vaccine availability
- Vaccine status
- Documentation
- Access to services

Sen. Clemens introduced SB 2274 with supportive testimony (#25196).

Additional Written Testimony:

Lisa Pulkrabek, North Dakota citizen, supportive testimony (#24014).

Tiffany Ornmonde, North Dakota citizen, supportive testimony (#24109).

David Ornmonde, North Dakota citizen, supportive testimony (#24110).

Rocky Babel, North Dakota citizen, supportive testimony (#24594).

Debra Bolte, North Dakota citizen, supportive testimony (#24601).

Alida Arnegrad, North Dakota citizen, supportive testimony (#24694).

Brenda Stallman, Executive Director of Traill District Health Unit in Hillsboro, ND, opposition testimony (#24746).

Lyndsey Jensen, North Dakota citizen, supportive testimony (#24949).

Mary Korsmo, on behalf of the North Dakota State Association of City and County Health Officials, opposition testimony (#24981).

Allison Grabow, North Dakota citizen, opposition testimony (#25137).

Doug Sharbono, North Dakota citizen, supportive testimony (#25178).

Chairman Weisz adjourned the meeting at 3:49 PM.

Phillip Jacobs, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

SB 2274
3/27/2023

Relating to vaccination and infection information.

Chairman Weisz called the meeting to order at 3:35 PM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich present. Clayton Fegley not present.

Discussion Topics:

- Committee work
- Amendments

Chairman Weisz called for a discussion on SB 2274.

Rep. Frelich discussed progress on drafting an amendment.

Chairman Weisz adjourned the meeting at 3:38 PM.

Phillip Jacobs, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

SB 2274
4/5/2023

Relating to vaccination and infection information.

Chairman Weisz called the meeting to order at 3:40 PM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Todd Porter, Brandon Prichard, Jayme Davis, and Gretchen Dobervich present. Reps. Carrie McLeod and Karen M. Rohr not present.

Discussion Topics:

- Committee work
- Amendments

Chairman Weisz called for a discussion on SB 2274.

Rep. Frelich proposed and moved to adopt amendment (#23.0920.02002) to SB 2274 (#27496).

Seconded by Rep. Anderson.

Roll Call Vote:

Representatives	Vote
Representative Robin Weisz	N
Representative Matthew Ruby	Y
Representative Karen A. Anderson	Y
Representative Mike Beltz	N
Representative Jayme Davis	N
Representative Gretchen Dobervich	N
Representative Clayton Fegley	N
Representative Kathy Frelich	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	N
Representative Carrie McLeod	AB
Representative Todd Porter	N
Representative Brandon Prichard	Y
Representative Karen M. Rohr	AB

Motion fails 5-7-2.

Rep. Porter moved to adopt amendment (#23.0920.02001) to SB 2274 (#27497).

Seconded by Vice Chairman Ruby.

Motion carries by voice vote:

Rep. Porter moved a do pass as amended on SB 2274.

Seconded by Rep. Dobervich.

Roll Call Vote:

Representatives	Vote
Representative Robin Weisz	Y
Representative Matthew Ruby	Y
Representative Karen A. Anderson	Y
Representative Mike Beltz	Y
Representative Jayme Davis	Y
Representative Gretchen Dobervich	Y
Representative Clayton Fegley	Y
Representative Kathy Frelich	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	Y
Representative Carrie McLeod	AB
Representative Todd Porter	Y
Representative Brandon Prichard	Y
Representative Karen M. Rohr	AB

Motion carries 12-0-2.

Carried by Rep. Prichard.

Chairman Weisz adjourned the meeting at 3:56 PM.

Phillip Jacobs, Committee Clerk

23.0920.02001
Title.03000

Prepared by the Legislative Council staff for
Senator Clemens
March 14, 2023

BR
171
4-5-23

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2274

Page 1, line 6, overstrike "**(Repealed effective August**"

Page 1, overstrike line 7

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2274, as engrossed: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2274 was placed on the Sixth order on the calendar.

Page 1, line 6, overstrike "**(Repealed effective August**"

Page 1, overstrike line 7

Renumber accordingly

TESTIMONY

SB 2274

NORTH DAKOTA
UNIVERSITY SYSTEM
ACCESS. INNOVATION. EXCELLENCE.

SB 2274
Senate Human Services Committee
February 13, 2023
Katie Fitzsimmons, Director of Student Affairs, NDUS
701-328-4109 | katie.fitzsimmons@ndus.edu

Chair Lee and members of the Senate Human Services Committee: My name is Katie Fitzsimmons, and I serve as the Director of Student Affairs for the North Dakota University System. I am here today on behalf of the North Dakota University System and its eleven institutions to provide testimony in opposition related to SB 2274, enlighten the committee about the current process used throughout the North Dakota University System, and provide consideration for an amendment.

Currently, with respect to vaccination data, the eleven campuses engage in a process to obtain sufficient records to ensure the safety of all students on campus in the event of an outbreak. Providing proof of vaccination is not required. Students are given two options: 1) Provide MMR and meningitis vaccination records to the campus OR 2) Complete the immunization exemption form and decline to provide records to the campus.

Option two is for students who prefer to not disclose whether they have received vaccinations. We do not ask why a student is requesting an exemption; we simply ask so we know the possible impact of an outbreak, should one occur on our campus or community. If an outbreak were to occur, the students who exempted from the requirement would be considered not vaccinated. As such, those students might not be allowed to attend classes in person or live on campus until the threat of disease is no longer present; that would be dependent on the assessment and recommendations of the local public health unit. We do not require any vaccination information from faculty, staff, or visitors to our campuses. However, if a faculty or staff member chooses to enroll in a course and attend it in person, they must also provide records or complete the exemption form.

We currently do not require any vaccine but asking for documentation one way or the other is a requirement for enrollment. Thus, our current process would not be congruent with state law if this bill were enacted. If we are required to change our current protocol, it could present challenges if an outbreak of a preventable disease were to occur. If this bill moves forward, the North Dakota University System requests an indemnification clause to lift the liability of severe injury, loss of access to education, and death if such circumstances were encountered due to a case of measles, mumps, rubella, or meningitis. Our concern lies in the ability to rapidly respond to possible cases of disease, and we feel equipped to do so under our current process and with the partnership with local public health units.

For further consideration, section one of the bill provides necessary carve outs for medical facilities and nursing homes. Similarly, we have students living in congregate living settings. We would request the committee consider the risks a preventable, infectious disease presents in such an environment and would request the committee consider providing an exception for the University System.

This concludes my testimony related to SB 2274. I respectfully request consideration of an indemnification clause or providing an exception for higher education if our current process would no longer be allowed. I will gladly work with the clerk and Legislative Council to draft such an amendment if necessary. I remain available for questions from Committee members and bill sponsors.

My name is Faisal Siddiqui, and I am a pediatrician at CHI St.Alexius Health. I am writing this statement as an advocate of the children whom i take care of. It is my utmost duty to work towards providing a safe environment for children. I want to express my support for vaccination, and I believe that no one should be discriminated against for their decision to receive or not receive a vaccine. In fact, these words of vaccination and discrimination should not be used together.

The purpose of my statement is to provide information and share my personal perspective on the importance of vaccination, especially in healthcare settings and schools.

Vaccines are a safe and effective way to protect ourselves and others from infectious diseases. The COVID-19 pandemic has highlighted the importance of vaccination in preventing the spread of disease and saving lives. While everyone has the right to make their own healthcare decisions, it's important to recognize that choosing not to get vaccinated can have serious consequences for both the individual and the community. Vaccines have been instrumental in eradicating or greatly reducing the prevalence of many deadly diseases such as smallpox, polio, measles, and rubella. They have also been crucial in preventing outbreaks of illnesses that can cause serious harm, such as meningitis, whooping cough, and pneumonia. People who don't get themselves vaccinated put themselves at higher risk of contacting disease in severe form compared to vaccinated individuals.

As a pediatrician, I have seen firsthand the impact of infectious diseases on individuals and communities.Just in this current winter season, we have seen the hospital systems being overwhelmed with influenza infection, and most sick individuals were those who did not receive their vaccination. Vaccines have a crucial role in preventing outbreaks and keeping people healthy. I believe that by getting vaccinated, we are not only protecting ourselves but also showing respect and consideration for those around us. It should be mandatory for the kids in school and high-risk individuals like healthcare staff to get vaccinated so they can protect themselves and other and stop the spread of infection. On the other hand, we should also work extensively on educating and providing awareness to people with quality scientific evidence so the disbelief against vaccination can be addressed.

In conclusion, I strongly support vaccination as a means of protecting public health, and I believe that everyone should have access to vaccines regardless of their personal beliefs or circumstances. At the same time, I also believe that with proper awareness and education, we can end this dilemma of discrimination or stigmatization based on vaccination status.

Faisal Siddiqui, MD. FAPP

Medical Director NICU

CHI St. Alexius Health

900 E Broadway Ave

Bismarck, ND 58503

Ph: 7015307000

Faisal.siddiqui900@commonspirit.org

Date: 11th February 2023.

NORTH Dakota | Health & Human Services
Be Legendary.

SB2274
Senate Human Services
February 13th, 9:30 a.m.

Good morning Chairwoman Lee and members of the Senate Human Services Committee. My name is Molly Howell, and I am the Immunization Director for the North Dakota Department of Health and Human Services (Department). I am here to provide testimony in opposition to Senate Bill 2274.

Of public health concern, is that this bill appears to limit public health actions that extend to all vaccine-preventable diseases. The bill would not allow employers, including hospitals, correctional facilities, congregate housing settings or law enforcement, to treat vaccinated and unvaccinated people differently after exposure to a disease. This means that close contacts to individuals with communicable diseases such as hepatitis A, measles or Ebola, would need to be treated the same regardless of their vaccination and/or immunity status.

Here are a few real-life examples of this law's impact:

- A healthcare facility may not be able to exclude a susceptible, unvaccinated healthcare worker after exposure to measles, because the bill would not allow vaccinated and unvaccinated people to be treated differently.
- If a healthcare worker or police officer has a needlestick, the employer needs to know the worker's hepatitis B vaccination status and immunity to determine if vaccination and/or treatment is needed.
- If a restaurant worker is diagnosed with hepatitis A, which can be spread through contaminated food, and other employees were exposed, the vaccinated contacts would be protected against hepatitis A and would not need quarantine. Unvaccinated close contacts are supposed to be excluded from work for 30 days after exposure. Because a restaurant owner cannot treat vaccinated and unvaccinated employees differently, the owner would have to decide to exclude all exposed employees or to let them all work, regardless of vaccination status.

- A final example is veterinary clinics and animal control agencies where employers need to know the rabies vaccination status of staff in case of exposure.

This bill limits the ability of businesses, group homes, correctional facilities and the healthcare industry to choose to offer the safest work environment for employees and the safest environment for customers, residents and patients. Of major concern is the risk to patients who may be receiving care and are susceptible to infections and at increased risk for complications from infections.

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

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

This bill appears to impact the ability of the board of higher education to require measles vaccination or vaccination against a form of bacterial meningitis called meningococcal disease, which has a fatality rate of about 15%, with older adolescents and young adults having a slightly higher risk for death. Philosophical, moral and religious exemptions are currently available for university students who choose not to be vaccinated.

The bill does not address the issue of out-of-state companies or the federal government (i.e., OSHA, CMS) who require vaccination. Employees for these entities will need to know if they are to follow North Dakota law, the employer requirements or the federal mandate? In a similar situation, the Federal Court blocked enforcement of Montana's COVID-19 vaccination discrimination law in healthcare settings, finding the law unconstitutional and preempted by federal law.[i]

In conclusion, this bill limits the ability of businesses, institutions of higher education, group homes, corrections, and healthcare facilities to operate in a manner that maximizes the safety of students, customers, patients, residents, staff and healthcare providers.

Thank you for the opportunity to appear before you today. I would be happy to respond to any questions you may have.

[i] Federal Court Blocks Enforcement of Montana's Vaccination Discrimination Law (shrm.org)

2/13/2023 SB 2274-Opposition Senate Human Services Committee

Brenda Stallman
Hillsboro, ND

Hello, Chair Lee and Members of the Senate Human Services Committee,

My name is Brenda Stallman. I am the Executive Director of Traill District Health Unit in Hillsboro. I am here in opposition to SB 2274.

A favorite activity of mine is to exit the highway while traveling and visit small little towns in ND that I have not yet been to, and invariably I find some treasure that makes me glad I stopped.

I would like to give you a quick tour of my little town of Hillsboro. So glad you took the time to veer off I-29 35 miles north of Fargo and join me as I introduce you to some very special people.

First, lets stop by the Traill County Courthouse, where our public health office is located and home to 3 experienced public health nurses. Meet Kelly and Chris, each with 25 plus years of public health experience. For me to keep them safe in their positions, I must ask them to be vaccinated against Hepatitis b, as they vaccinate our county residents and run the risk of a needle stick injury that could transfer the dangerous virus to their blood stream. Chronic hepatitis b is a serious liver infection that can develop into a dangerous disease, resulting in liver damage, liver failure, liver cancer, and even death.

Next door, meet Sheriff Steve. He is a cancer survivor, and we are grateful he is healthy and back to looking out for our safety and security. His immune status is compromised, making him more susceptible to vaccine preventable diseases. Steve

rarely has a full staff, as finding qualified peace officers is difficult. He and his deputies are frequently spit on and/or bitten and run a high risk, also, of contracting diseases transmitted through body fluids. Hepatitis b vaccinations are critical to this at-risk group of employees, as are first responders, firefighters, and ambulance crews.

Let's continue our tour. Meet Marty, our funeral director. He and his staff are at high risk for exposure to blood borne viruses in the course of their work. Vaccinations are necessary for those who handle cadavers and human remains.

Hillsboro is fortunate to now have our own veterinarian practice. Meet Scott, who opened his practice 6 years ago, and employs technicians to assist him with vaccinations, exams, and surgeries. It is imperative for Scott and his staff to be vaccinated against rabies for which there is no cure if contracted from a rabid animal. An animal does not always show signs of rabies and can pass the disease on to an unsuspecting person. Once symptoms of rabies occur, it is nearly always fatal.

Probably one of the most popular individuals in Hillsboro, or at least the one most highly sought, is Tom. He is an outstanding plumber and employs apprentice and journeymen plumbers that deal, as you know, with human waste and sewage. Tetanus vaccinations, as well as shots for Hepatitis A and B are necessary in their line of work. Hepatitis A causes liver inflammation, reducing the ability for the liver to function, and is spread through contaminated food and water.

Next, our school. Over 500 students in Pre K – grade 12. Within our school, you will find long-term janitorial supervisor, Steve. Another cancer survivor with a compromised immune system, and one of the friendliest guys around. Janitors have a high risk of

being exposed to hepatitis a and b. These 500 students all face a higher risk of vaccine-preventable diseases, due to close proximity, poor respiratory and restroom hygiene, and highly mobile activity levels taking them from town to town. Covid is just one disease that kept school administrators, teachers, and public health professionals busy day and night as we did our best to keep sick staff and students away from those who were not ill. Imagine 11 more vaccine preventable diseases circulating, because of no longer requiring proof of vaccinations. There would be no time to teach, nor enough students and staff present to keep the schools open. To achieve herd immunity for measles, 95% of the population must be vaccinated or have had the disease. If we are not at that high level, measles will be a real threat. And we are already seeing this in areas of unvaccinated populations.

And finally, let me introduce you to our community's most vulnerable population. Our clinic, hospital, and nursing home is where an already over-stretched medical staff takes care of our sick, immunocompromised and chronically ill.

Melissa works with the senior population that needs help with managing their diabetes and other conditions that jeopardize their ability to stay safely in their homes. She has had two kidney transplants and cannot risk being exposed to a vaccine preventable illness that could lead to rejection of her kidney. Residents of the LTC facility run the gamut of chronic illnesses like diabetes and heart disease that make them more vulnerable to transmission of viruses and bacteria that are life threatening.

So now you have met some of the many people needed to keep our town of Hillsboro thriving. Many are operating on a very fine margin between success and conversely, closure, due to staffing shortages, or the expenses of doing business. By imposing on

them the threat of just one employee becoming seriously ill due to lack of a vaccination is a risk that is careless, unnecessary, and dangerous. Imagine these horrible diseases, once halted due to life saving vaccines, sweeping through a community like Hillsboro with no ability to determine who is protected and who is not. And of course, these circulating diseases are not confined within the walls of one community.

Imagine the liability of an employer who does not provide or require the necessary vaccines vital to keep his/her staff safe. In our litigation possessed society, we as employees would be first line targets of a lawsuit in the case of a work-related illness that was preventable with a vaccine not required based on best practices.

So my little town is no different than any other town in ND. Hard working, well-trained, and good intentioned citizens look to all of us to do what we can to keep our towns vitalized and safe.

There is one more person I wanted you to meet, but unfortunately he's not here. Nor does he have plans to return. I am talking about my son, Brady. He has a year remaining in his ER physician residency. My dream was that he would finish his training and return to ND. He has informed me that he cannot work in a state that keeps him from using the tools that he needs and that are recommended to give his patients the best care he can. In this case those tools are required vaccines.

Thank you for hearing my testimony in opposition to SB 2274.

I support SB2274. I am in support of this bill, because it shouldn't be within the purview of any business or private/public employers to force or coerce any employee to get any medical procedure in order to maintain employment or to maintain "Good Standing" within the company. ("Good Standing" includes but is not limited to, the ability to receive promotions, the ability to receive yearly merit increases, the ability to receive favorable performance reviews, etc.).

Such medical procedures include, for example, vaccination. Vaccination is an individual's personal choice and is not in any way, shape, or form, the business of an employer or prospective employer. An employer does not have the right, under any circumstance to ask an employee to volunteer any medical information or history. To do so is simply an abuse of their power and should not be allowed.

I respectfully request that these items be fully considered by each individual in senate body prior to the bill being voted on. I strongly encourage passage of SB2274.

I support SB2274. I am in support of this bill, because it shouldn't be within the purview of any business or private/public employers to force or coerce any employee to get any medical procedure in order to maintain employment or to maintain "Good Standing" within the company. ("Good Standing" includes but is not limited to, the ability to receive promotions, the ability to receive yearly merit increases, the ability to receive favorable performance reviews, etc.).

Such medical procedures include, for example, vaccination. Vaccination is an individual's personal choice and is not in any way, shape, or form, the business of an employer or prospective employer. An employer does not have the right, under any circumstance to ask an employee to volunteer any medical information or history. To do so is simply an abuse of their power and should not be allowed.

I respectfully request that these items be fully considered by each individual in senate body prior to the bill being voted on. I strongly encourage passage of SB2274.

SB 2274
Senate Human Services Committee
February 13, 2023
Paul Letvin, Pastor
Submerge Church, Fargo, ND
paul.letvin@submergechurches.com
701-740-5876

Chair Lee and members of the Senate Human Services Committee:

My name is Paul Letvin. I serve as a pastor of Submerge Church, co-leader of the Evangelical Leadership Network of Fargo-Moorhead, and chair of America's Black Robe Regiment of North Dakota. I am providing this testimony on behalf of various Christian groups across the great state of North Dakota, as well as on behalf of SAGE Cons (Spiritually Active, Governance Engaged Conservatives), which comprise of 9 percent of U.S. adults (approximately 23 million people), **in support of SB 2274**.

As Christians, we – including our bodies – belong to the Lord. Our bodies do not belong to the state, any man, or any employer (1 Peter 2:9; 1 Corinthians 6:19-20; 1 Corinthians 7:23). Any attempt to alter, damage, or destroy the image of God in man is an insult to our Creator and rebellion against God. The Greek verb translated destroy (phtheirei) in Romans 9:20 also means "to corrupt" or "spoil."

Christians and their bodies are described as a temple of God, and the Spirit of God dwells within us (1 Corinthians 6:18). While the context of this verse is sexual immorality, this signifies to us that we must exercise the greatest care in how we use and treat our bodies, including any substances that might be injected into our bodies. Employers do not and should not dictate the food and drink to be consumed by their employees, and neither should they dictate what is injected into their bodies.

Every person is responsible for willful acts done in his or her body. Responsibility to God for one's own actions is not obviated by government or private party demands to disobey God's Word. No temporal crisis, disease, or pandemic obviates the will of God or nullifies one of His commandments.

I strongly encourage a "Do Pass" of SB 2274. Thank you for your consideration.

But God has revealed it to us by his Spirit. The Spirit searches all things, even the deep things of God. – 1 Corinthians 2:10

FOUNDATION for a Healthy North Dakota

SB 2274
Senate Human Services Committee
February 13, 2023, | 9:30 a.m.

Good morning, Chairwoman Lee and the Senate Human Services Committee. I am Sandy Tibke, Executive Director of Foundation for a Healthy North Dakota.

I am providing testimony in opposition to SB2274.

This proposed bill would prohibit an employer — from private businesses to healthcare — from protecting their employees and customers from transmissible diseases. North Dakotans deserve to feel safe when they seek healthcare, go to work, and support the North Dakota economy by shopping at stores in their communities. If an employer's rights to uphold immunization requirements, to ask about employees' vaccination status in work settings, and to assign employees to certain duties or exclude them from certain duties are restricted as this legislation intends to do — North Dakota employers will be stymied in their efforts to keep their workforce, customer base, and communities healthy and safe.

The Foundation for a Healthy North Dakota is concerned that this bill would restrict private and independent healthcare institutions from maintaining vaccination requirements amongst their employees. The majority of North Dakotans receive care from private institutions — Sanford Health, Essentia Health, and Catholic Healthcare Initiatives (CHI). These patients could therefore face an enhanced risk of infectious disease transmission and outbreak due to unvaccinated staff. This is an unconscionable risk to vulnerable North Dakotans, from infants to the elderly.

Vulnerable North Dakotans would be significantly affected by this legislation. For example, Veterans' Honor Flights in North Dakota are a cherished means of demonstrating our gratitude for the service of our veterans. This bill would restrict the operators from ensuring staff on the flights — a team of individuals in a small, shared space — have the vaccinations to protect those veterans. Similarly, organizations like the Ronald McDonald House, which supports families of children receiving serious, long-term care by providing a place to stay close to major healthcare providers, would not be able to guarantee the safety of families using its services. When a rural parent has a gravely ill child and is stressed, scared, and worried about their child, the last thing that parent should have to worry about when staying at the Ronald McDonald House is putting their family at even greater risk for illness.

Similarly, this bill would restrict the rights of higher education institutions to uphold the existing school requirements that have been in place and largely uncontroversial for

decades. Vaccines are safe and effective. Vaccine requirements in higher education settings that are rife with opportunities for infectious disease transmission keep educators and students safe and healthy.

Finally, the Foundation has concerns about the new protected discrimination class this legislation would create. The North Dakota legislature has shown caution around expanding protected classes around discrimination in other areas of the law. However, this bill *would* create a new protected class. Similar laws have been implemented elsewhere, including in Montana. A federal judge has already blocked Montana's vaccination discrimination law enforcement in healthcare settings. Due to this law's conflicting guidance, we expect that the injunction will likely expand to other settings.[1]

I urge a no vote on SB2274.

Thank you for the opportunity to speak today. I am open to any questions.

References

1. *Montana's vaccination discrimination law: Federal court blocks enforcement.* The National Law Review. (n.d). Retrieved January 23, 2023, from https://www.natlawreview.com/article/montana-s-vaccination-discrimination-law-federal-court-blocks-enforcement.

Senate Bill 2274
Human Services Committee
February 13, 2023

Good morning, Chairwoman Lee and members of the Senate Human Services Committee. My name is Kylie Hall. I currently reside in north Fargo in District 45. I have a Master's Degree in Public Health, with an emphasis in the management of infectious diseases. I have spent the last 7.5 years working on vaccine-related projects at North Dakota State University in the Center for Immunization Research and Education, where I am the currently the Operations Director. I would like to make clear that my comments today are not on behalf of North Dakota State University.

Public health promotes and protects the health of people and the communities where they live, learn, work and play. Whether you realize it or not, public health practices impact your life every single day. Public health is the clean air you breath and the clean water you drink. Public health is safe roads for drivers and smoke free North Dakota. It's food safety. It's nutrition. It's cancer screenings. Public health is so many things, and this includes infection prevention and vaccination.

We have vaccines available for many different infectious diseases, and they are administered throughout our lifespans. Some vaccines are primarily for children or just for adults, while others are recommended based on health status or occupational exposures.

In public health, our recommendations and actions are based on what is best for a population or community, and then we do those things to protect ourselves and others. Admittedly, some public health measures are done at the expense of individual freedom. Here are just a few examples: 1) We've implemented speed limits to reduce risks associated with driving too fast. When I'm in a hurry to get somewhere, I still have to follow the speed limit laws to help protect those I share the road with. 2) We've implemented smoke free laws so people can breathe clean air in public and not be subjected to second-hand smoke, and this sometimes forces smokers outside in the middle of winter or when it is raining. 3) We have laws against drunk driving, to protect the driver, any passengers, and other drivers from this dangerous practice. 4) When my young children are sick with a fever, it is in the best interest of others in their daycare rooms to keep them home until they have been fever-free for at least 24 hours.

In these situations, I would like to ask you this question: "Why do we do this?" I think most would agree the that these public health actions are necessary to preserve the health of a community or population.

At the heart of Senate Bill 2274 are the questions of, "Should you be able to treat people differently based on their vaccination status?" And, "Should differential treatment be labeled discrimination?" In certain situations, I believe it is imperative that we treat unvaccinated individuals differently as a matter of public health practice. Public health actions are not meant to discriminate, rather, they are done to protect others and mitigate risks.

As written, Senate Bill 2274 applies to all vaccines. There are many vaccine-preventable disease mitigation strategies which involve treating vaccinated and unvaccinated individuals differently. In these instances, if individuals are treated differently, it is not because public health entities are trying to discriminate against them, but because the health of a population or community may depend on disease control.

- Example 1: In the event of a measles outbreak on a college campus, it would be critically important to know who is vaccinated against the disease and who is not. If a student is not vaccinated against the disease, they may be required to quarantine, refrain from attending class, or have different living accommodations while the outbreak is occurring. This protects the unvaccinated student and other students. Their vaccinated counterparts would not have the same requirements. Under SB 2274, these actions would be deemed discriminatory.
- Example 2: A case of hepatitis A in a food handler would prompt close contacts who are unvaccinated to refrain from work for at least 30 days. If SB2274 were passed, unvaccinated and vaccinated employees could not be treated differently, so the business owner would have to decide between letting unvaccinated workers continue to work with the vaccinated employees (and potentially exposing more employees or customers) or keeping everyone out of work for an extended period of time.

I'd also like to address the impacts of this bill on the business community. This bill is an attempt to impose a government-knows-best, one-size-fits-all policy on private businesses. It would impact the business community significantly and employers' ability to manage their businesses and to make decisions that impact safety.

Not every employer – in fact, a small minority of employers – have, or likely ever would, require employees to receive a vaccine – a vaccine of any sort – as a condition of employment. However, when they do, it is not done arbitrarily. It is not a decision entered into lightly, as there are a variety of legal factors employers must consider in the context of making workplace vaccinations mandatory. Some employers have determined that requiring employees to be vaccinated is necessary in order to safeguard the health of other employees and their families, clients and visitors, or their communities.

You or I may disagree with an employer's determination that any infectious disease (hepatitis B, measles, influenza or COVID-19) poses enough of a risk within that workplace to warrant requiring employees be vaccinated. However, this bill takes the right to make that determination away from the employer, who knows their workplace better than anyone else.

Some may refer to SB 2274 as a freedom bill. But what about an employer's freedom to run their business the way they think is best? If you believe that employers should have the freedom to operate their businesses, to make decisions about protecting their workforce, and to develop the health and safety policies and practices that meet the needs of their individual workplaces, then you should vote "Do not pass" on this bill.

Montana House Bill 702 was passed in 2021, and it was very similar to SB2274. It is important for North Dakota to understand what has happened since this bill was passed.

In December 2022, U.S. District Judge Donald Malloy permanently blocked a section of the law the state said was meant to prevent employers – including many healthcare facilities- from discriminating against workers by requiring them to be vaccinated against communicable diseases, including COVID-19. His ruling stated, "The public interest in protecting the general populace against vaccine-preventable disease in healthcare settings using safe, effective vaccines is not outweighed by the hardships experienced to accomplish that interest." In the interest of precedent, North Dakota will need to carve out an exception in this law for healthcare workers and healthcare facilities or it will likely be headed to the courts and the cost will be passed on to North Dakota taxpayers.

I also want to touch on the reasonable accommodations section of SB 2274. This bill leaves it up to the employer, and there is no clear guidance on what is considered "reasonable". Who decides this? The state? The federal government? The employer? While one facility may require a surgical mask for unvaccinated employees, another may require regular testing and wearing of an N95 mask. One facility may require something completely different, possibly having unvaccinated individuals work in areas where they don't have patient contact or in a different department or on a different floor. This will be confusing and frustrating for those trying to implement the law. And then you must ask yourself, "What if employees in North Dakota don't agree with what their employer considers "reasonable"?

Here's another example of where this bill falls short: a facility that serves vulnerable populations, such as the Ronald McDonald House, would not be able to deny access to the facility or its services based on someone's vaccination status or immunity passport. That would be considered discrimination. Now ask yourself, should we be able to ask about vaccination status (and potentially deny entry) when there's an outbreak of a vaccine preventable disease, community transmission is high, and the facility is home to vulnerable patients and their families? This isn't discrimination, but it is a public health measure meant to protect a medically vulnerable community.

Finally, I would like to point out that Rice University's Baker Institute for Public Policy has published on a report on Claiming the Unvaccinated as a Protected Class. I will include some of their report highlights below.

- In most cases, protected class designations are premised on a person's "immutable characteristics" or inherent traits — those that are impossible or incredibly difficulty to change. Laws that prohibit against discrimination based on intrinsic differences, rather than mutable or changeable characteristics like political leanings and group associations, are necessary in order to protect individuals from unjust treatment. Legal scholars note that "antidiscrimination law has moved beyond immutability" with respect to characteristics like religion and sexual orientation on the grounds that "such characteristics are very difficult, as a practical matter, to change, or … are so fundamental to personhood that 'it would be abhorrent for government to penalize a person for refusing to change them.'" In other words, it should be illegal to discriminate against a person based upon who they are as a person.

In contrast, one's choice not to vaccinate is not, as a general rule, outside of one's immediate control. Further, evidence shows that vaccine willingness is dynamic, and "opposition to vaccination is far from immutable." While a plaintiff may be able to argue that an employer's vaccine mandate results in a disparate impact by equating the failure to comply with the mandate to discrimination on the basis of gender or race, such an argument is likely to encounter high hurdles in light of past precedents.
Unlike existing anti-discrimination laws, extending civil rights protections to those who choose to refuse vaccination has a negative impact on others in the community — many of whom those existing laws are intended to protect.

- In 1905, there was a Supreme Court Ruling regarding a man named Henning Jacobson, who refused to be vaccinated against smallpox and was fined. In its reasoning, the Supreme Court recognized the inherent tension between individual rights and public health protection. It upheld the Massachusetts' law, holding that "the state has the right to interfere with individual liberty and immunize citizens if it determines that there is a valid public health reason to do so." It held that such laws are appropriate delegations of state police power: the power to enact reasonable measures to protect and secure the health, safety, and welfare of the community and its citizens. Such laws violate individual constitutional rights if they are arbitrary and unjustified in intent, extent, or enforcement. Laws that protect the health and welfare of citizens must therefore employ reasonable means to achieve reasonable ends.
- Generally speaking, when a law appears to treat individuals differently, courts defer to the legislative judgment that the distinction serves a rational purpose. And, in most cases, laws intending to protect public health have been seen to further a legitimate government interest, therefore establishing a rational basis for differential treatment.
- Calling practices that treat unvaccinated individuals differently "discrimination" equates unvaccinated individuals with those who have been historically disadvantaged and are protected by the Constitution or federal and state civil rights laws.
- If efforts to classify unvaccinated individuals as a suspect class succeed, state regulations seeking to control the spread of COVID-19, or other vaccine-preventable diseases, by mandating vaccines for its citizens would be subject to the highest level of scrutiny. Regulations that discriminate against a suspect class will only be upheld if the law furthers a compelling government interest and ensures the legislature/agency/government narrowly tailored the law to accomplish that interest. Under an equal protection clause analysis, without implicating a suspect class, public health laws do not violate individual liberties, because they further a legitimate government interest in protecting health, and there is a rational basis for differential treatment. In other words, such emergency orders bear a rational relationship to the legislative goal of protecting the public. However, when public health laws are "applied more harshly against members of racial and ethnic minority groups and other socially vulnerable groups than others," and the "differential treatment of protected groups is explicit in the law or can be proved intentional, the court will intercede" by limiting or striking down those laws.
- Vaccine mandates are not one-size-fits-all. Rather, vaccine mandates are permissible under certain circumstances: The disease is highly transmissible, serious and often lethal;

the vaccines are safe and effective; and crucially there is no equally effective alternative available to protect public health." The ACLU has argued that "[f]ar from compromising civil liberties, vaccine mandates actually further them." Rather than focusing on those who choose not to be vaccinated, the ACLU emphasizes that mandatory vaccination protects the most vulnerable in our communities, including individuals with disabilities, communities of color, and children too young to be vaccinated.

- In the context of prohibitions on employer vaccine mandates, laws that prohibit discrimination on the basis of vaccine status would tie employers' hands, limiting their ability to keep employees and customers safe.
- Laws that designate the unvaccinated as a protected class would thwart efforts to protect the public from other highly transmissible viruses.
- Classifying unvaccinated individuals as a protected class is legally inconsistent with the history of vaccine mandates. Mandatory vaccines are, by their nature, an intrusion into individual autonomy and bodily integrity. However, the right to individual autonomy is not absolute and may be limited in circumstances where individuals pose a risk to others. In the context of COVID-19 {any many other vaccine-preventable diseases}, the risk of transmission and harm to others is great, particularly for at-risk individuals and communities. The Supreme Court held in 1905 that there are justifications for when such intrusions are necessary, and it is essential to continue to abide by this precedent.
- Efforts to declare the unvaccinated a protected could severely limit our ability to control highly transmissible and dangerous diseases. Countering these efforts will be a prolonged but necessary process to safeguard public health.

We need to remember that this bill applies to all vaccines. There may come a day down the road, maybe tomorrow or a year from now or ten years from now, when an infectious disease outbreak for which a vaccine is available wreaks havoc in North Dakota. And one of the tools we would normally have available, such as quarantining exposed individuals who aren't vaccinated, will not be a tool we have in our toolbox because treating unvaccinated and vaccinated people differently is considered discrimination. This bill will limit public health actions to stop the spread of a disease. It will limit our ability to protect others. And ultimately, North Dakotans will suffer the consequences. We can't see into the future, but I encourage you to think about the future when you vote on this bill.

Please vote "do not pass" on Senate Bill 2274.

Respectfully submitted,

Kylie Hall, MPH
Fargo, ND – District 45

My name is Lisa Pulkrabek from District 31. I am writing to you today regarding SB2274. Please recommend a DO PASS. I was hoping to be here in person today to stand before you to support this bill but my schedule would not allow me to do so.

North Dakotans need jobs and want to work to support their families. We understand that Covid is here to stay and the other viruses will probably come in the future. Some of us willingly take vaccines for such viruses and others of us know that the vaccines are dangerous to our health and refuse to take them. This is how the process should go, each person given a choice to take a vaccine or not. It is not right to force a person into taking a vaccine in order to keep a job or get a job. It is not right to require a “vaccine passport” or document proving vaccination. Do you remember HIPPA? It was all the rage in the past. Now employers are demanding to know if their employees have had a disease or a vaccination against it. Whatever happened to privacy?

Covid is here, but it has mutated so many times that the vaccines are a shot in the dark guess hoping to get the next strain right. They are not effective and they are dangerous. Requiring a person to prove they have had a vaccine is requiring them to get a vaccine, it is the same thing. We still have bodily autonomy given to us by God. No government, employer, school or other agency has the right to take that away from anyone.

This bill is important now regarding covid and it is important for the future because we know that Pharmaceutical companies are currently working on dozens of vaccines for other known illnesses and future ones. Where does it stop? If in 2030 pharma needs a few billion dollars are they going to suggest to the government that such and such illness is an imminent killer and EVERYONE needs to get vaccinated against it? I wouldn’t put it past them. Bill Gates has already predicted that the next virus will be worse. This madness must end here and now. The state of ND can lead the way for other states to protect the rights of their citizens.

I strongly urge you to render a DO PASS on this SB 2274 when it comes up for a vote in your committee. Thank you kindly! Lisa Pulkrabek

FEBRUARY 12, 2023

SENATE HUMAN SERVICES COMMITTEE

SB 2274

INTRODUCED BY:

SEN DAVID CLEMENS

DIST 16

I AM SEN DAVID CLEMENS AND AM HERE TO INTRODUCE SB 2274. SB 2274 WOULD NOT ALLOW ANY ONE TO DENY SERVICES, GOODS, FACILITIES, ADVANTAGES, PRIVILEGES, LICENSING, EDUCATIONAL OPPORTUNITIES, HEALTH CARE ACCESS OR EMPLOYMENT OPPORTUNITIES TO ANOTHER BASED ON THEIR VACCINATION STATUS.

THE BILL WOULD ALSO NOT ALLOW A PERSON TO REFUSE EMPLOYMENT OR PUBLIC ACCOMMODATION TO SOMEONE BASED ON THEIR VACCINATION STATUS.

SECTION 14-02.7-02 WHICH ADDRESSES EMPLOYMENT WILL NOT APPLY TO ANY MEDICAL CARE FACILITY OR A LICENSED NURSING HOME, LONG-TERM CARE FACILITY, BASIC CARE FACILITY OR ASSISTED LIVING FACILITY.

IN CONCLUSION, I ASK FOR YOUR SUPPORT OF SB 2274 WITH A DO PASS RECCOMMENDATION.

SUBMITTED BY,

SEN DAVID CLEMENS

2023 Senate Bill no. 2274
Senate Human Services Committee
Senator Judy Lee, Chairman
February 13, 2023

Good morning, Chairman Lee and members of the Senate Human Services Committee. I am Dr. Danielle Thurtle, a board certified pediatrician and pediatric hospitalist with Sanford Health Bismarck. I serve as Sanford Bismarck's chief of pediatric medicine and patient safety officer and chair the physician executive committee. I am testifying on behalf of the North Dakota Hospital Association (NDHA), which represents hospitals and health systems across the state.

North Dakota hospitals ask that you give this bill a **Do Not Pass** recommendation.

This bill would take away the ability of hospitals to require staff be vaccinated against serious diseases like measles, mumps, polio, and many others and gravely impair the ability of health care providers to protect their patients and employees.

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.

Influenza vaccination has been proven to decrease spread of flu to the most vulnerable patients: babies in the neonatal intensive care unit (NICU), immunocompromised patients, organ transplant units, and long term care facilities. These are families who trust us to keep their loved ones safe and a simple influenza infection could be deadly.

While we can't protect our staff and patients from everything, we must always prevent what is preventable. 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 be allowed to follow best practices as driven by science, unrestricted by regulations that do not put patient safety first.

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.

Despite claims to the contrary, it is a fact that immunizations - including the COVID-19 vaccines - are well-researched, safe, and provide extensive protection from the greater risk of illness, hospitalization, and death.

Health care providers across the state implemented the Centers for Medicare and Medicaid Services (CMS) COVID-19 vaccine mandate for their employees 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.

Finally, 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 CMS rule requiring COVID-19 vaccination for all eligible employees at health care facilities that participate in Medicare and Medicaid was upheld by the courts. Employees who qualify for a medical or sincerely held religious belief exemption may skip the immunization. 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. Our hospitals cannot afford to lose Medicare and Medicaid payments – they make up approximately 60% of our revenue.

We respectfully ask that you protect healthcare providers' abilities and decisions to protect both our employees and the patients and families we serve. Please give the bill a **Do Not Pass** recommendation.

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

Danielle Thurtle, M.D.
Sanford Health Bismarck
Danielle.Thurtle@SanfordHealth.org

My name is Melyssa Howry and I am a resident of Plaza, ND. I would like to offer testimony in support of SB2274. Please read this personal story of how the exploitation of the Covid vaccine has affected our family over the past couple of years.

My husband is employed at a public school in a town near Plaza. In March of 2021, we learned that the school had decided to incentivize the Covid vaccine. But rather than just a simple reward for receiving the vaccine, they retroactively rewarded those who had already received at least the first of two doses (by March 23rd, the night of the school board meeting) with $1,500. Those who had not yet received any doses, but did so by May 15th, would receive $500. Everyone else, of course, would receive $0.

This was a “Loyalty Payment” that was previously awarded to all teachers as long as they were in good standing. In 2021, the school decided that in order to be considered loyal employees, they must make a private medical decision that the school approved of, and subsequently disclose that private decision to their employer.

This special “Loyalty Payment” happened again in the fall of 2021, and once more in the spring of 2022. We thought they had finally begun to treat everyone as equals again, but in just December of 2022, they again awarded gifts cards valued at $300 for all who received the booster, and $100 for those who had not.

My husband attempted to speak with the school board and teacher’s union, only to be ignored. The rest of the staff have accepted this medical discrimination and poor treatment as just part of working at the school, and do not speak up for fear of retribution. I do not believe this should be legal.

I leave you with this question: What kind of message does it send when employees are only valued based on what medical decisions they make? I appreciate your time and attention to this important matter. Thank you.

Respected Chairperson Lee and Committee Members,

My name is Parveen Wahab, and I am a pediatric hospitalist physician at CHI St. Alexius Health in Bismarck. I am here today to express my opposition to SB 2274

As someone who has dedicated my career to the health and well-being of my patients, I am deeply concerned about the impact this bill could have on public health. It would criminalize a core function of public health by making the implementation of any vaccination a felony with severe penalties. This would make all immunization requirements for employers, healthcare facilities, schools, universities, and other settings where diseases can spread ineffective.

Vaccination is a critical tool in the fight against infectious diseases and effectively reduces the spread of disease and saves lives. We have already seen the re-emergence of polio and measles virus in the United States. Such diseases have safe and effective vaccines that have been proven to control the transmission of these dangerous viruses. Widespread uptake of vaccination is necessary for the achievement of herd immunity and the protection of public health. However, if the unvaccinated become a protected class, the spread of such diseases will likely escalate, putting everyone at risk. Especially our children and the immune-compromised. It also puts healthcare providers at risk who is at the forefront of fighting this disease.

Vaccination status is not considered a protected status under discrimination laws because it is not a characteristic intrinsic to an individual's identity, such as race, religion, or gender. Instead, vaccination is a medical intervention that individuals choose to undergo based on their beliefs and circumstances. By conflating the two, we risk diluting the protections of truly vulnerable individuals.

In conclusion, I strongly oppose the proposed bill to make vaccination status a protected status. This bill would have devastating consequences for public health and undermine the very foundation of our healthcare system. I urge our lawmakers to consider the potential impact on public health and reject this proposal. Thank you for your time and consideration.

Parveen Suhara Wahab, MD
Chair, Dept of Pediatrics
CHI St. Alexius Health
900 E Broadway Ave
Bismarck, ND 58503

68th Legislative Assembly
Regular Session (2023)

S.B. 2274

Senate Human Services Committee
Sen. Judy Lee, Chairman
Sen. Sean Cleary, Vice Chairman

Testimony of Nathan Svihovec
Commissioner of Labor
N.D. Department of Labor and Human Rights

NEUTRAL

February 13, 2023

NORTH Dakota | Labor and Human Rights
Be Legendary.

I. Introductory Summary

Chairman Lee, Vice Chairman Cleary, and members of the Senate Human Services Committee, my name is Nathan Svihovec and I was appointed as the North Dakota Department of Labor and Human Rights Commissioner beginning December 2022. I am a licensed attorney in the State and prior to my appointment, primarily practiced in labor and employment law as well as other civil litigation areas. I have been fortunate to formerly represent the Department as an Assistant Attorney General and to represent private businesses and individuals before the Department while I was in private practice.

Chapter (Ch.) 34-05 of the North Dakota Century Code (N.D.C.C.) created the North Dakota Department of Labor and Human Rights and prescribes the powers and duties of the Commissioner of Labor (Labor Commissioner). The Department's statutory duties can be most concisely summarized as ensuring citizens can live, work, and prosper in North Dakota. It is my deeply held belief that the mission of the Department is an essential service to the public.

II. Disability Discrimination

The North Dakota Human Rights laws protect individuals with disabilities. A disability is defined as a physical or mental impairment that substantially limits one or more major life activities, a record of this impairment, or being regarded as having this impairment. It is a discriminatory practice for an employer to fail or refuse to make reasonable accommodations for a qualified employee with a physical or mental disability unless the employer can show the accommodation would pose an undue hardship. Notice to an employer of a need for an accommodation triggers a duty to engage in an interactive process through which the employer and employee can discuss possible reasonable accommodations.

The North Dakota Human Rights Act further protects people with disabilities from discrimination in public accommodations – such as full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation. A place of public accommodation includes a facility open to the public.

The Department also investigates claims of federally equivalent protections pursuant to its work-sharing agreement with the EEOC, the federal equivalent to the Department. In return, the Department receives federal funding for a portion of its investigations.

III. Recent Case Law

Well-settled legal precedent holds that state law that conflicts with a constitutional federal law is deemed unconstitutional and void. A recent federal court decision determined, in part, a similar state statute was preempted by the Americans with Disabilities Act (ADA) and violated the Equal Protection Clause of the Constitution.

In Montana Medical Ass'n. v. Knudsen, the court determined that it could not meaningfully be shown how employers could accommodate a person with a disability or employee and still comply with the statute. The court further reasoned that, for a facility to accommodate any immunocompromised individuals' safety and health, it needed to know the vaccination status of employees. The court noted that, even if an entity was unable to limit a patient's exposure to non-immune staff, the setting still needs to know immunity or vaccination status of employees to offer protection and reduce the risk of exposure through other possible methods such as using specialized personal protective equipment or requiring physical distancing.

IV. Legal Precedent

Long before the ADA (or state equivalent) protections were in place, the U.S. Supreme Court issued an opinion on vaccines in 1905. In Jacobson v. Commonwealth of Massachusetts, the Cambridge, Massachusetts board of health adopted the following regulation:

> "Whereas, smallpox has been prevalent to some extent in the city of Cambridge, and still continues to increase; and whereas, it is necessary for the speedy extermination of the disease that all persons not protected by vaccination should be vaccinated; and whereas, in the opinion of the board, the public health and safety require the vaccination or revaccination of all the inhabitants of Cambridge; be it ordered that all the inhabitants of the city who have not been successfully vaccinated since March 1st, 1897, be vaccinated or revaccinated."

The defendant argued that "vaccination 'quite often' caused serious and permanent injury to the health of the person vaccinated; that the operation 'occasionally' resulted in death; that it was 'impossible' to tell 'in any particular case' what the results of vaccination would be, or whether it would injure the health or result in death." The Supreme Court, however, held the law was not unconstitutional.

V. Neutral Assessment

This bill will create situations where individuals with immunocompromising disabilities seek to limit their exposure to unvaccinated individuals and employers will be unable to legally request employees' vaccination statuses. In addition, employees who are immunocompromised will be required to isolate and thus not afforded full and equal access to the goods, services, facilities, privileges, advantages, or accommodations of those who are not immunocompromised. In other words, based on the recent court decision, the Department will encounter legally contradicting positions regarding treatment of individuals with disabilities. Accordingly, the Department requests language is included in an amendment that

expressly creates an exception for employers of individuals with disabilities pursuant to the ADA and N.D.C.C. ch. 14-02.4.

VI. Fiscal Impact

I anticipate a significant increase in claims filed with the Department pursuant to this bill. The increase in claims will likely require additional FTEs to investigate and process the claims. With our current case backlog, this would delay our existing cases from being timely investigated. It is prudent that the Department receive authorization and funding for at least 2 additional Compliance Investigator FTEs if this bill passes.

VII. Conclusion

Thank you for your time and service to North Dakota. I would happily address any questions you may have.

23.0920.01001
Title.

Prepared by the Legislative Council staff for
Senator Clemens
February 10, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2274

Page 3, line 23, after "A" insert "medical care facility or a"

Renumber accordingly

NDMA
Est.1887 NORTH DAKOTA MEDICAL ASSOCIATION

Senate Human Services
SB 2274
Monday February 13

Chair Lee and Committee Members, my name is J'Patrick Fahn. 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.

Although COVID-19 immunizations were probably the source of the bill, it applies to all vaccines, including those against measles, influenza, pertussis, varicella and hepatitis B.

This bill would prohibit hospitals and clinics from mandating any vaccines. In the healthcare setting, mandating vaccines for healthcare workers as a condition of employment is a common policy that was initially prompted by the goals of protecting patients from health care–acquired infectious diseases and to protect the workplace from the disruption and expense of worker illnesses.

Page 2 contains the following:
6. "Reasonable accommodations" means accommodations by an employer which do not:

a. Unduly disrupt or interfere with the employer's normal operations;
b. Threaten the health or safety of the individual seeking reasonable accommodations or others;

c. Contradict a business necessity of the employer; or

d. Impose undue hardship on the employer, based on the size of the employer's business, the type of business, the financial resources of the employer, and the estimated cost and extent of the accommodations.

One could argue that page 2, line 6, already exempts healthcare facilities from compliance with the bill but could also be left up to interpretation depending on which side of the argument you stand on. As a physician, I believe the health of the unvaccinated staff at a healthcare facility would be at risk regardless of accommodations made in a healthcare environment.

Page 3, line 23, of the bill contains an exemption from compliance if it would result in a violation of regulations or guidance issued by the centers for Medicare and Medicaid services, but only for a licensed nursing home, long-term care facility, basic care facility or assisted living facility.

In congruence with page 2, line 6 and page 3, line 23, the NDMA requests that all healthcare facilities be included in the exemption outlined in page 3, line 23. CMS regulations require several types of vaccines. The regulation covers what most people would consider traditional health care settings such as Ambulatory Surgery Centers, Community Mental Health Centers, Critical Access Hospitals, Home Health Agencies, Hospices, Hospitals, Clinics, Rural Health Clinics/Federally Qualified Health Centers, and Long-term Care facilities.

NDMA requests a DO NOT PASS recommendation on the bill. Thank you for the opportunity to testify today. I would be happy to answer any questions.

J'Patrick Fahn, DO
Chief Medical Officer
CHI St. Alexius Medical Center
jpatrick.fahn@commonspirit.org
701-530-7690
900 E Broadway Ave
Bismarck, ND 58501

GNDC
Greater North Dakota Chamber

GREATER NORTH DAKOTA CHAMBER
SB 2274
Senate Human Services Committee
Chair Judy Lee
February 10, 2023

Madam Chair and members of the Senate Human Services Committee, my name is Andrea Pfennig with the Greater North Dakota Chamber. GNDC is North Dakota's largest statewide business advocacy organization, with membership represented by small and large businesses, local chambers, and trade and industry associations across the state. We stand in **opposition** of Senate Bill 2274.

This bill would apply to more than COVID vaccines. It would apply to every vaccine, including those for deadly diseases like polio, measles, and diphtheria that have largely been eradicated due to vaccines. This bill would also prohibit employers from discrimination in any term, condition, or privilege of employment. For many businesses, that means any processes they may have in place to provide reasonable accommodations to unvaccinated employees would be unavailable.

The last few years have demonstrated that we cannot anticipate what may occur in the future. This bill is far-reaching and could hinder possible solutions to other public health emergencies that may arise. Depending on the future federal regulatory environment, this bill has the potential to make employers choose whether to break state or federal laws & regulations.

GNDC has long supported the right of employers to determine policies for their operations and workforce. Businesses know the best course of action for their functions, and it is their choice to determine the policies they enact.

We request a Do Not Pass on SB 2274.

701.222.0929 ndchamber@ndchamber.com ndchamber.com PO Box 2639 • Bismarck, ND 58502

23.0920.01002
Title.

Prepared by the Legislative Council staff for
Senator Clemens
February 14, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2274

Page 2, after line 20, insert:

"8. "Vaccine" means a preparation used to stimulate the body's immune response against disease which has not been approved by the United States food and drug administration."

Page 3, line 23, after "A" insert "medical care facility or a"

Page 3, after line 27, insert:

"4. A person is exempt from compliance with section 14-02.7-02 during any time for which compliance would result in violation of a federal vaccine mandate."

Renumber accordingly

5. A health care provider, health insurer, or government health plan may not withhold coverage or care from an individual nor may a health insurer deny an individual a health insurance benefit plan based solely on that individual's choice to participate or to opt-out of the health information organization.

23-12-20. COVID-19 vaccination and infection information. (Repealed effective August 1, 2023)

1. Neither a state government entity nor any of its political subdivisions, agents, or assigns may:
   a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to property, funds, or services:
      (1) An individual's COVID-19 vaccination status;
      (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
      (3) An individual's COVID-19 post-transmission recovery status;
   b. Otherwise publish or share an individual's COVID-19 vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or
   c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:
      (1) An individual's COVID-19 vaccination status;
      (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
      (3) An individual's COVID-19 post-transmission recovery status.
2. 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. A private business located in this state or doing business in this state may not require a patron, client, or customer in this state to provide any 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. This subsection does not apply to a developmental disability residential facility or a health care provider, including a long-term care provider, basic care provider, and assisted living provider. As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service.
4. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.
5. 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.
6. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.
7. 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.

34-03-10. COVID-19 vaccination requirements - Exemptions. (Repealed effective August 1, 2023)

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 or contractor requires an employee, 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 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.
   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
      (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.
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.

Members of the House Human Services Committee,

My name is Lisa Pulkrabek from District 31. I am writing to you today regarding SB2274. Please recommend a DO PASS.

North Dakotans need jobs and want to work to support their families. We understand that Covid is here to stay and the other viruses will probably come in the future. Some of us willingly take vaccines for such viruses and others of us know that the vaccines are dangerous to our health and refuse to take them. This is how the process should go, each person given a choice to take a vaccine or not. It is not right to force a person into taking a vaccine in order to keep a job or get a job. It is not right to require a “vaccine passport” or document proving vaccination. Do you remember HIPPA? It was all the rage in the past. Now employers are demanding to know if their employees have had a disease or a vaccination against it. Whatever happened to privacy?

Covid is here, but it has mutated so many times that the vaccines are a shot in the dark guess hoping to get the next strain right. They are not effective and they are dangerous. Requiring a person to prove they have had a vaccine is requiring them to get a vaccine, it is the same thing. We still have bodily autonomy given to us by God. No government, employer, school or other agency has the right to take that away from anyone.

This bill is important now regarding covid and it is important for the future because we know that Pharmaceutical companies are currently working on dozens of vaccines for other known illnesses and future ones. Where does it stop? If in 2030 pharma needs a few billion dollars are they going to suggest to the government that such and such illness is an imminent killer and EVERYONE needs to get vaccinated against it? I wouldn’t put it past them. Bill Gates has already predicted that the next virus will be worse. This madness must end here and now. The state of ND can lead the way for other states to protect the rights of their citizens.

I strongly urge you to render a DO PASS on this SB 2274 when it comes up for a vote in your committee. Thank you kindly! Lisa Pulkrabek

Hello Members of the Health and Human Services,

My name is Tiffany Ormonde and I reside in District 31. I am asking you to please render a Do Pass on house bill SB 2274.

It is a discrimination to use vaccine status against a person. Doing so violates HIPPAs rights and privacy.I believe is a way to bully people into using an experimental vaccine.

Thank you for your consideration on this important issue and for your service to the state of North Dakota.

Tiffany Ormonde

Hello Members of the Health and Human Services,

My name is David Ormonde and I reside in District 31. I am asking you to please render a Do Pass on house bill SB 2274.

I would like to know how this is not a violation of HIPPA laws? Our information should be private. Whether or not we have been vaccinated is not anyone's business. And deciding if we should receive services, jobs, or the right to enter a premises depending on that vaccine status is discrimination.

Thank you for your consideration on this important issue and for your service to the state of North Dakota.

David Ormonde

My name is Rocky Babel, I reside in district 32. I am asking you to please render a DO PASS On house bill 2274.

I do not think that whether someone had got the shot or not should be a factor in getting hospital care, it goes against HEPA laws. It remains an individual's personal right if they want it or not.

Thank you for your service on this important issue and for the State of ND

Rocky Babel

My name is Debra Bolte I reside in district 31. I am asking you to please render a DO PASS On house bill 2274.

I do not think that whether someone had got the shot or not should be a factor in getting hospital care, it goes against HEPA laws. It remains an individual's personal right if they want it or not.

Thank you for your service on this important issue and for the State of ND

Debra Bolte

SB 2274
Dear Honorable Senators of the House and Human Services Committee,

Good morning! Thank you Representatives Klemin, Beard, Larsen, Magrum, & Vetter for sponsoring this vitally important bill. My name is Alida Arnegard. I reside in District 26. I respectfully urge you to render a Do Pass on SB 2274. I highly value my health freedoms and the sovereignty granted to me under the constitution. This bill would help to secure those rights.

I watched the interesting online testimonies in support and opposition to this bill. Many medical providers stood in opposition & focused on the importance of vaccines. Thankfully medical facilities will not fall under the jurisdiction of this bill.

In the case of a future pandemic, individuals would not be discriminated against based on their vaccine status.

SB 2274 ensures that the citizens of ND will be able to maintain their freedom to make health decisions regarding vaccination status without being burdened.

VAERS (Vaccine Adverse Events reporting system) has reported astonishingly high numbers of adverse events due to the Covid 19 vaccine. Governor De Santis reported a 19,000% increase in Senior deaths after COVID shots! There have been several pilots who died of heart attacks recently with no reason given but with references to taking a covid booster.

Floridas Surgeon General Joseph Ladapo recently issued a disturbing Health Alert on mRNA COVID 19 vaccine safety on February 15, 2023 based on the governments statistics in VAERS. This information regarding VAERS is available online.

In the last pandemic, we were given information that was constantly changing and was often contradictory. Although medical professionals say that the COVID vaccine has helped many, others claim otherwise. It is vitally important for each of us to do our own research and to be given the freedom to choose our own healthcare vs. being managed or forced into care that we dont believe in.
This bill hedges in protection from government overreach. I would ask you to please render a Do Pass on SB 2274.

Sincerely,

Alida Arnegard

2/14/23 House Human Services Committee Brenda Stallman
Opposition to SB 2274 Hillsboro, ND

Hello, Chairman Weisz & Members of the House Human Services Committee,

My name is Brenda Stallman. I am the Executive Director of Traill District Health Unit in Hillsboro. I am in opposition to SB 2274.

Governor Burgum's Main Street Initiative promotes vibrant community centers as fundamental elements of workforce development. It provides tools and resources to capitalize on each community's strengths and allows for sound planning decisions that attract and retain a skilled workforce.

Preventing an employer from accessing knowledge of immunization status of his/her workers poses a significant threat to the safety of the workforce and a danger to the health of the community. Many employers in our little towns as well as larger cities are walking a fine line between thriving and closing due to worker shortages and narrow profit margins.

Whenever possible, it is our duty to protect our citizens and workers from the threat of becoming seriously ill due to exposure to someone who lacks a vaccination. This is a risk that is careless, unnecessary, and dangerous.

By denying employers the ability to determine the vaccination status of their employees when appropriate for their individual business, it sets the stage for a life-threatening disease to quickly sweep through a community like yours and mine with no ability to determine who is protected and who is not. And of course, these circulating diseases are not confined within the walls of one community.

Imagine the liability of an employer who does not provide or require the necessary vaccines vital to keep his/her staff safe. In our litigation possessed society, we as employees would be first line targets of a lawsuit in the case of a work-related illness that was preventable with a vaccine not required based on best practices.

Hard working, well-trained, and good intentioned citizens look to all of us to do what we can to keep our towns vitalized and safe.

Thank you for considering my testimony in opposition to SB 2274.

March 12, 2023

Mr. Chairman and Members of the Committee,

My name is Lyndsey Jensen. I am a resident of Bismarck, ND. I submit this testimony in favor of SB 2274 for your consideration.

I support SB 2274 for the following reasons: freedom to privacy, freedom from employment harassment, and freedom from medical coercion.

Privacy is important and should be reasonably protected. Covid vaccination does not guarantee that one will not spread Covid and all its variants; therefore, the documentation proving up-to-date Covid vaccination status is not necessary in securing the workplace from the spread of Covid-19.

Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA). While Covid-19 vaccination status is not specified, routine testing for the presence of COVID-19 pathogens, antigens, or antibodies could be considered as harassment per the U.S. Equal Employment Opportunity Commission website's definition (1):

"Harassment is unwelcome conduct that is based on race, color, religion, sex (including sexual orientation, gender identity, or pregnancy), national origin, older age (beginning at age 40), disability, or **genetic information** (including family medical history). Harassment becomes **unlawful** where 1) **enduring the offensive conduct becomes a condition of continued employment**, or 2) **the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.**"

Many places of work require unvaccinated personal to undergo routine testing to detect the presence of COVID-19 pathogens, antigens, or antibodies. These tests are invasive and can be quite painful. This bill would specifically prohibit this common practice.

An employee should not be coerced into a medical procedure or vaccination to keep or to gain access to their field of practice. This is basic boundaries—unless your boss is Michael Scott (2), he should not be made aware of your medical history nor considered in your medical decisions. Bodily autonomy is important and should be defended.

For these reasons I encourage you to recommend a **DO PASS** for SB 2274. The Michael Scott reference was for comical relief and for your benefit.

Thank you.

Sources:

1. https://www.eeoc.gov/harassment
2. https://www.quotes.net/show-quote/62158

Testimony Prepared for the
House Human Services Committee
March 15, 2023
By: Mary Korsmo
ND State Association of City & County Health Officials

RE: Opposition to SB 2274

Chairman Weisz and members of the House Human Services Committee, the North Dakota State Association of City and County Health Officials (NDSACCHO) opposes any reduction of vaccination requirements in North Dakota that reduce the spread of vaccine preventable disease.

SACCHO is comprised of all 28 local public health units. We appreciate the opportunity to communicate our opposition to this bill and urge a Do Not Pass.

I am writing in opposition of SB2274. While I believe that there are times when medical privacy is extremely important, I am nervous to make a blanket law or statement simply as a reaction to the events that occurred beginning in 2020 with the COVID pandemic. This bill is a complete reaction and not well thought out. It targets specific circumstances relating to COVID and does not take into effect any future health concerns of our state or nation. We don't know what the future may bring. COVID caused a lot of problems in our lives (medically, financially, and otherwise). I agree that things could have been handled differently and that there was a lot of confusion with how to move forward. Many different opinions made it difficult to find common ground. This bill, however, does not solve the BIG problem, which is what might happen in the future. We do not know what we don't know. Making a reactionary law, rather than creating procedures for the future doesn't help. We need to make sure we aren't limiting future healthcare workers because of a bad reaction. If there is a health crisis in which documentation is absolutely necessary, we need our medical professionals to be in charge of that. This bill is bringing in lawmakers to my healthcare, and I don't believe they belong there.

Sincerely,
Allison Grabow

Do Pass Testimony
of Doug Sharbono, citizen of North Dakota
on SB2274
in the Sixty-eighth Legislative Assembly of North Dakota

Dear Chairman Weisz and members of the House Human Services Committee,

I am writing as a citizen and believe SB2274 is needed legislation to protect North Dakota citizens. Requiring experimental vaccinations as a condition of employment is difficult to contemplate, but this is the situation many have. These requirements were made in haste and panic. I know decisions I have made in haste do not usually work as well as I initially thought. We are now discovering the Covid vaccinations ARE NOT always safe, and we certainly have found out they are not effective. This is the role of the ND legislature to give this matter oversight and provide some framework. This bill accomplishes that.

Please give SB2274 a Do Pass.

Thank you,

Doug Sharbono
1708 9th St S
Fargo, ND 58103

MARCH 15, 2023

HOUSE HUMAN SERIVCES COMMITTEE

SB 2274

SUBMITTED BY SEN DAVID CLEMENS

DISTRICT 16

I AM DAVID CLEMENS AND REPRESENT DISTRICT 16 IN THE SENATE. I AM HERE TO INTRODUCE SB 2274.

CURRENT STATUTE STATES THAT NEITHER A STATE GOVERNMENT ENTITY NOR ANY OF ITS POLITICAL SUBDIVISIONS, AGENTS, OR ASSIGNS MAY:

a. REQUIRE DOCUMENTATION, WHETHER PHYSICAL OR ELECTRONIC, FOR THE PURPOSE OF CERTIFYING OR OTHERWISE COMMUNICATING THE FOLLOWING BEFORE PROVIDING ACCESS TO PROPERTY, FUNDS, OR SERVICES:
(1) AN INDIVIDUAL'S COVID-19 VACCINATION STATUS.

WHAT SB 2274 DOES, IS ADD THE FOLLOWING LANGUAGE TO SUBSECTION 1, a, (1), AFTER THE WORD STATUS, "OR VACCINATION STATUS FOR A VACCINE THAT IS UNDER EMERGENCY USE AUTHORIZATION FROM THE FEDERAL FOOD AND DRUG ADMINISTRATION."

EMERGENCY USE IS A VACCINE THAT HAS NOT YET BEEN APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION. THIS BILL WOULD THEN ADDRESS THE REQUIREMENT OF AN INDIVIDUAL'S COVID-19 AND EMERGENCY USE VACCINE STATUS.

I HEREBY ASK FOR YOUR SUPPORT OF SB 2274 WITH A DO PASS RECOMMENDATION.

RESPECTFULLY SUBMITTED,

SEN DAVID CLEMENS

23.0920.02002
Title.

Prepared by the Legislative Council staff for
Representative Frelich
March 30, 2023

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2274

Page 1 line 6, overstrike "**(Repealed effective August**"

Page 1, line 7, overstrike "**1, 2023)**"

Page 2, line 24, overstrike "has adopted policies and procedures governing the type of"

Page 2, overstrike line 25

Page 2, line 26, overstrike "shared, and exemptions from providing such documentation" and insert immediately thereafter "requires the documentation or publishes or shares the record or similar health information in order for the individual to participate in an educational activity with a third party that requires the information, such as a rotation, residency, or internship"

Renumber accordingly

23.0920.02001
Title.

Prepared by the Legislative Council staff for
Senator Clemens
March 14, 2023

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2274

Page 1, line 6, overstrike "**(Repealed effective August**"

Page 1, overstrike line 7

Renumber accordingly