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Dennis Halliwell
Operator's Signature

10/22/03

Date

2003 SENATE HUMAN SERVICES

SB 2345

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10/22/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2345

Senate Human Services Committee

☐ Conference Committee

Hearing Date February 4, 2003

Tape Number	Side A	Side B	Meter #
1		X	391-2480
Committee Clerk Signature <i>Donna Kramer</i>			

Minutes:

SENATOR JUDY LEE opened the Public Hearing for SB 2345 relating to the preparation of health care directives, and to declare an emergency.

SENATOR THOMAS TRENBEATH was here to introduce the bill but has to leave, it was noted by Senator Lee.

ARNOLD THOMAS, President of North Dakota Healthcare Association, testified in support of the bill. He stated current law is very unclear. It raises the question whether or not a private provider can share medical information to a regional human service center for diagnostic purposes when an issue of commitment is on the table. SB 2345 says that medical information may be shared with regional human service centers whether or not the individual authorizes the release of the medical records. Section 1 is critical bringing us into Federal law. Sections 2 & 3 has to do with private institutions. Mentioned 24-hour provision. (Meter # 389 - 712)

SENATOR FAIRFIELD: Questioned involuntary commitment. (Meter #717 - 910)

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10/22/03
Date

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Senate Human Services Committee

Bill/Resolution Number SB 2345

Hearing Date February 4, 2003

SENATOR FISCHER: How many of these occur in a year?

ARNOLD THOMAS: I don't know, he said, will have to get information. (Regarding
Involuntary commitments)

DAVE PESKE, of ND Medical Association, urged a do pass. No concerns or issues with the
bill. (Meter # 958 - 1002)

DAVID BOECK, state employee and lawyer for the Protection & Advocacy Project, testified in
favor of the bill. (Written testimony provided)

KAREN LARSON, Director of Mental Health and Substance Abuse for Department of Human
Services, testified in a neutral position. She said screening process applies to all involuntary and
voluntary admissions. She asked to work with Mr. Thomas for an amendment and added
language more precise. Discussion with committee regarding voluntary commitment, proper
screenings. Reduction of admissions is really a desired outcome. (Meter # 1608 - 2440)

Public Hearing for SB 2345 closed. (Meter # 2480)

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10/22/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2345

Senate Human Services Committee

☐ Conference Committee

Hearing Date February 10, 2003

Tape Number	Side A	Side B	Meter #
2	X		3523 - 5968
Committee Clerk Signature <i>Donna Kramer</i>			

Minutes:

SENATOR JUDY LEE reopened the discussion on SB 2345 relating to the preparation of health care directives in screening patients.

SENATOR FAIRFIELD: Referred to the language on page 2. (Meter # 4215)

SENATOR LEE: Need help on the amendments.

MIKE MULLEN, from the Attorney General's office, responded to question about reducing number of days.

ARNOLD THOMAS, President of North Dakota Healthcare Association, with respect to number of days - that is a policy decision. Senate has already put a bill over to the House. Recommend delete the time and delete inclusion. Take the issue up on the House side. (Meter #4360 - 4495)

Continued discussion with committee regarding number of people involved and duration of treatment..

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Senate Human Services Committee

Bill/Resolution Number SB 2345

Hearing Date February 10, 2003

MIKE MULLEN: Reviewed the proposed amendment and committee made changes as needed.

(Meter # 4767 - 5178)

SENATOR BROWN made a motion to Do Pass on the amendments.

SENATOR FAIRFIELD seconded the motion.

Roll call was read. 6 yeas and 0 nays.

SENATOR BROWN made a motion to DO PASS as amended.

SENATOR POLOVITZ seconded the motion.

MIKE MULLEN: Answered question about right to counsel and discussed with committee.

(Meter # 5664 - 6118)

Roll call was read. 5 yeas and 1 nay.

SENATOR BROWN to be the carrier. (Meter # 6201)

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10/22/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2345

Senate Human Services Committee

☐ Conference Committee

Hearing Date April 1, 2003

Tape Number	Side A	Side B	Meter #
1	X		1792 - 1929
Committee Clerk Signature			

Minutes:

SENATOR JUDY LEE opened the committee discussion on SB 2345 regarding the preparation of health care directives in screening patients. She said Senator Brown has carried SB 2345 with fairly significant amendments. We wanted to coordinate that 7 day - 4 day kind of stuff, the weekend and holidays kind of stuff. Part of what was done here, even though it looks really wrong, is that is what was done. So, my suggestion will be that we have a conference committee - just have it fully explained. But, it doesn't sound as if there is anything really bogus. It is a matter of lining those two bills that we saw. So, if that sounds agreeable to the group, we will not concur on that one.

SENATOR FAIRFIELD: ... They put weekends and holidays back in there. So, the other bill doesn't have weekends and holidays and this one they put back in, is what you're saying.

SENATOR LEE: If I remember of what Mr. Thomas said this morning that in the effort to try to make sure that those two bills don't fight, it was something that was being done with weekends

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10/22/03
Date

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Senate Human Services Committee

Bill/Resolution Number SB 2345

Hearing Date April 1, 2003

and holidays in this one. ... Make sure that we're lining those up. ... We will probably want to

have a conference committee on this one just so we clearly understand what the days are.

(Meter # 1929)

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Deanna Dally
Operator's Signature

10/22/03
Date

38350.0101
Title.0200

Adopted by the Human Services Committee
February 10, 2003

PROPOSED AMENDMENTS TO SENATE BILL NO. 2345

Page 1, line 1, remove ", subsection 3 of section 25-03.1-21,"

Page 1, line 2, remove "and subsection 1 of section 25-03.1-26"

Page 1, line 15, replace "the regional human service center may have access to medical" with
"and the individual that is the subject of the screening does not authorize the disclosure of the individual's protected health information, upon the request of the regional human service center, any mental health professional who has treated the individual within the previous six months shall disclose, subject to the requirements of title 42, Code of Federal Regulations, part 2, to the human service center any relevant protected health information regarding that treatment"

Page 1, remove line 16

Page 1, line 17, remove "authorizes the release of the medical records"

Page 1, remove lines 22 and 23

Page 2, remove lines 1 through 31

Page 3, remove lines 1 through 6

Renumber accordingly

903
2-11-03

Date: 02-10-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2345

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendments Passed

Motion Made By Sen. Brown Seconded By Sen. Fairfield

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee - Chairman	✓				
Senator Richard Brown - V. Chair.	✓				
Senator Robert S. Erbele	✓				
Senator Tom Fischer	✓				
Senator April Fairfield	✓				
Senator Michael Polovitz	✓				

Total (Yes) 6 No 0

Absent _____

Floor Assignment _____

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

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Deanna Waller 10/22/03
Operator's Signature Date

Date 02-10-03
Roll Call Vote #: (2)

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2345

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Sen. Brown Seconded By Sen. Polovitz

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee - Chairman	✓				
Senator Richard Brown - V. Chair.	✓				
Senator Robert S. Erbele	✓				
Senator Tom Fischer	✓				
Senator April Fairfield		✓			
Senator Michael Polovitz	✓				

Total (Yes) 5 No 1

Absent _____

Floor Assignment Sen. Brown

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

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Deanna Hall 10/22/03
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
February 12, 2003 12:44 p.m.

Module No: SR-27-2394
Carrier: Brown
Insert LC: 38350.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2345: Human Services Committee (Sen. J. Lee, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2345 was placed on the Sixth order on the calendar.

Page 1, line 1, remove ", subsection 3 of section 25-03.1-21,"

Page 1, line 2, remove "and subsection 1 of section 25-03.1-26"

Page 1, line 15, replace ", the regional human service center may have access to medical" with "and the individual that is the subject of the screening does not authorize the disclosure of the individual's protected health information, upon the request of the regional human service center, any mental health professional who has treated the individual within the previous six months shall disclose, subject to the requirements of title 42, Code of Federal Regulations, part 2, to the human service center any relevant protected health information regarding that treatment"

Page 1, remove line 16

Page 1, line 17, remove "authorizes the release of the medical records"

Page 1, remove lines 22 and 23

Page 2, remove lines 1 through 31

Page 3, remove lines 1 through 6

Renumber accordingly

2003 HOUSE HUMAN SERVICES

SB 2345

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10/22/03
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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2345

House Human Services Committee

☐ Conference Committee

Hearing Date March 10, 2003

Tape Number	Side A	Side B	Meter #
2	x		16.7 - 36.5
Committee Clerk Signature <i>Sharon Penrose</i>			

Minutes:

Arnold Thomas, ND Health Care Association appeared in support stating this is a measure which we asked to be introduced and as originally introduced it dealt with 3 different issues as engrossed it deals with 1. As engrossed it addresses an issue that one of the larger hospitals offering psychiatric services encountered and that had to do with whether or not that facility could exchange information within the mental health community based on a person who is involuntarily committed. And the laws as currently written is conveniently vague so we asked for specific language that would allow information to be exchanged among mental health professionals for persons who happen to be involved in admission or screening activities in public treatment facilities. That's all section 1 does is provide that authorization. The original bill had 2 additional sections and would ask that you seriously consider putting those two sections back in that were deleted by the Senate. When it was heard in the Senate, it happened to have been in a sequence in which the Senate had taken prior action on another bill that had to do

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House Human Services Committee
Bill/Resolution Number SB 2345
Hearing Date March 10, 2003

with involuntary commitment which reduced the number of days that a person could be involved in a commitment procedure process of 7 days to 4. When 2345 came behind that bill, the Senate had already passed that measure to you and that is still 2042 which is in Judiciary. They are considering an amendment that would exclude weekends and holidays from applying to the involuntary commitment procedures. The Senate took the action to reduce the days from 7 to 4, what we suggested is to keep everything parallel, strike section 2 and 3 from 2345 and deal with those exemptions over on the House side and that's why I'm asking you to amend back into 2345, section 2 and 3 of the original bill.

This does not have to do with anything with respect to a persons rights, it is actually a conflict of 2 competing values. We have the court mechanism involved in helping to assist in a medical determination and what we need here is some help in terms of managing the clock to make sure that the appropriated mechanisms are activated so that the individuals freedoms and rights are protected and at the same time societies is also protected. That's what behind 2345.

Rep. Price: Page 1, line 16 & 17, what reason did they leave the time frame in there for?

Answer: Doesn't know where the 6 month came.

Rep. Devlin: Stated there still is a way to access the courts during the weekend.

Mike Mullen, Attorney Generals Office at the request and in consultation with the Department of Human Services we did draft language that's underline language there saying that there could be access to the treatment records of the individual for the past 6 months and we also put in language saying subject to 42 CFR part 2 which requires certain permissions for disclosure of drug and alcohol treatment records. Then we used the word protected health information to make this comply with HIPPA.

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House Human Services Committee

Bill/Resolution Number SB 2345

Hearing Date March 10, 2003

Questions by the committee of someone not going to authorize their consent and if they would be able to pattern if you have some sort of history and how it is handled under HIPPA.

Corrine Hofmann, Director of Policy and Operations for the Protection & Advocacy Project appeared in opposition with written testimony. The language changes from 7 days to 4 days and SB 2045 was studied extensively during an interim committee and that issue of access to the courts and whether there would be a compromising of the ability of the court to addressing quickly enough whether they could actually handle that paper work that quickly was looked at and talked about and discussed and it was thought by many that this was doable. The language that was in the original version of 2345 was of great concern to us because it did conflict with that shortening of the time frame.

Closed the hearing.

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2345

House Human Services Committee

☐ Conference Committee

Hearing Date March 24, 2003

Tape Number	Side A	Side B	Meter #
1	x		1.0 - 6.0
Committee Clerk Signature <i>Sharon Penfrow</i>			

Minutes: Committee work.

Rep. Porter: The subcommittee unanimously voted that the period should exclude weekends and holidays. Should coincide with House Judiciary and moves to amend back to #38350.0100, second by Rep. Wieland.

Rep. Price: Does the committee need to know reasons?

Answer: Their particular version of the bill dealt more with the actual committal process, our version deals with the notice being filed with the Clerk of Court and even though the courts say they are open 24 hours a day, 7 days a week, its been an undue burden upon the Health Care Association to get the petitions filed on Saturdays and Sundays, that's why it was felt that the exclusion needs to be there. The actual time spent or potential time spent going back to the amendment version of 2045 will be will actually, worse case scenario be 7 days, best case scenario will drop it down to 6 days before the hearing would actually be held. What we are doing here really doesn't extend or reduce the amount of time a person would have to remain in

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10/22/03

Date

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House Human Services Committee
Bill/Resolution Number SB 2345
Hearing Date March 24, 2003

under a commitment order, but what the other bill does is they went back to 4 days excluding weekends and holidays and currently its at 7 days including weekends and holidays, the two just kinda fall together.

VOTE: 12 - 0 - 1 Amendment passed

Rep. Porter: motioned a DO PASS as Amended, second by Rep. Potter.

VOTE: 13 - 0 - 0 Rep. Porter to carry the bill.

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10/22/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2345

House Human Services Committee

☐ Conference Committee

Hearing Date March 26, 2003

Tape Number	Side A	Side B	Meter #
1	x		13.6 - 17.8
		x	9.6 - 23.4
Committee Clerk Signature <i>Sharon Penfrow</i>			

Minutes: Committee work.

Rep. Price: I pulled the bill back because Jennifer Clark asked about the language concerning the code of Federal Regulations for substance abuse, sharing of information.

Rep. Porter: It was our intention as a subcommittee when we brought it back to that version was not to re-change what they had done on page 1 only to bring back pages 2 and 3. I think going back to the first engrossment of the Senate bill was that language that does remain then HIPPA compliant.

Rep. Price: Jennifer's response to me was that's not HIPPA, its a special schedule on the substance abuse information.

Rep. Amerman: We went back to the original bill on pages 2 and 3 where it says exclusive of weekends and holidays, now was that to line up or coincide with 2045?

Rep. Porter: yes and no. They are two separate proceedings with a commitment process but they do then line up. What the proceeding on 2345 is, when the petition has to be filed with the court

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10/22/03
Date

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House Human Services Committee
Bill/Resolution Number SB 2345
Hearing Date March 26, 2003

system and the problem that's happening is the evaluation is completed within a specified time frame in 24 hours. Which is not the problem, its getting the petition filed with the Clerk of Courts on weekends and that's where the exclusion comes in. Even they are going to coincide in language, they are really two totally different parts of the process.

Rep. Porter: Rep. Potter and I met with Mr. Mullen, when we came back to the committee with a recommendation, I did not compare the 2 versions of the bill as close as I should have and we don't want to go back to version 0100 that was originally introduced in the Senate because Section 1 that deals with medical records then is non compliant with HIPPA and so what we want to do is go back to, add back in the first engrossment 0200, we want to put back in Section 2, 3 and 4, so I wish to reconsider our previous action, second by Rep. Wieland.

Motion passed.

Rep. Price: You want Section 1 from the 1st engrossment, section 2, 3 and 4 of the original bill?

Rep. Porter made that motion, second by Rep. Kreidt. Amendment passed

Rep. Amerman: This deals with written notice not 7 days?

Rep. Porter: Yes, the time frame just because of this particular piece of legislation isn't extended or decreased, all it is saying is that the facility which is going to be a hospital or psychiatric facility does not have to file that notice until Monday, if it happens on a Saturday. The other part of the bill 2045 says that the hearing date is 4 working days after the person is detained. That's the latest it can be.

Rep. Price: Doesn't it take a certain amount of time to do the evaluation?

Answer: That evaluation is mandated within 24 hours in law and that does not change.

Rep. Porter: Motioned a DO PASS as Amended, second by Rep. Potter

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House Human Services Committee
Bill/Resolution Number SB 2345
Hearing Date March 26, 2003

Rep. Sandvig: Section 3, exclusive of weekend and holidays? is that the same in 2045?

Answer: What your looking at the 2045 is the old version, their amended version of 2045 comes out saying 4 days exclusive weekends and holidays. So they had to make 2 changes, right now its just 7 days exclusive of holidays, the way the bill will read out of Judiciary Committee is 4 days exclusive of weekends and holidays.

Rep. Wieland: Rep. Porter mentioned here that that is the latest time, it can be within the 4 days.

VOTE: 12 - 1 - 0

Rep. Porter will carry the bill.

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Date

Date: March ²⁴, 2003
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2345

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

38350.0100

Action Taken

Do Pass as Amended

Motion Made By

Rep Porter

Seconded By

Rep Potter

Representatives	Yes	No	Representatives	Yes	No
Rep. Clara Sue Price - Chair	✓		Rep. Sally Sandvig	✓	
Rep. Bill Devlin, Vice-Chair	✓		Rep. Bill Amerman	✓	
Rep. Robin Weisz	✓		Rep. Carol Niemeier	✓	
Rep. Vonnie Pietsch	✓		Rep. Louise Potter	✓	
Rep. Gerald Uglem	✓				
Rep. Chet Pollert	✓				
Rep. Todd Porter	✓				
Rep. Gary Kreidt	✓				
Rep. Alon Wieland	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment

Rep. Porter

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

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Operator's Signature Deanna Walling

Date 10/22/03

REPORT OF STANDING COMMITTEE (410)
March 25, 2003 3:57 p.m.

Module No: HR-53-5738
Carrier: Porter
Insert LC: 38350.0201 Title: .0300

REPORT OF STANDING COMMITTEE

SB 2345, as engrossed: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2345 was placed on the Sixth order on the calendar.

Page 1, line 1, after "25-03.1-04" insert ", subsection 3 of section 25-03.1-21, and subsection 1 of section 25-03.1-26"

Page 1, line 2, after "directives" insert "and mental health commitment procedures"

Page 1, line 14, replace "and the individual that is the subject of the screening does not" with "the regional human service center may access the medical records of the mental health professional regarding the individual, regardless of whether the individual authorizes the release of the medical records"

Page 1, remove lines 15 through 18

Page 1, line 19, remove "information regarding that treatment"

Page 1, after line 23, insert:

"SECTION 2. AMENDMENT. Subsection 3 of section 25-03.1-21 of the North Dakota Century Code is amended and reenacted as follows:

3. If a peace officer, physician, psychiatrist, clinical psychologist, or any mental health professional reasonably believes that the respondent is not complying with an order for alternative treatment or that the alternative treatment is not sufficient to prevent harm or injuries to the respondent or others, and that considerations of time and safety do not allow intervention by a court, the designated professional may cause the respondent to be taken into custody and detained at a treatment facility as provided in subsection 3 of section 25-03.1-25 and, within twenty-four hours, exclusive of weekends and holidays, shall file a notice with the court stating the circumstances and factors of the case. The state hospital or public treatment facility must immediately accept, and a private treatment facility may accept, the respondent on a provisional basis. The superintendent or director shall require an immediate examination of the respondent and, within twenty-four hours after admission, exclusive of weekends and holidays, shall either release the respondent subject to the conditions of the original order or file a notice with the court stating in detail the circumstances and factors of the case. The court shall, within forty-eight hours of receipt of the notice of the superintendent or director, after a hearing and based on the evidence presented and other available information:
 - a. Release the individual from hospitalization and continue the alternative treatment order;
 - b. Consider other alternatives to hospitalization, modify its original order, and direct the individual to undergo another program of alternative treatment for the remainder of the commitment period; or
 - c. Enter a new order directing that the respondent remain hospitalized until discharged from the hospital under section 25-03.1-30.

REPORT OF STANDING COMMITTEE (410)
March 25, 2003 3:57 p.m.

Module No: HR-53-5738
Carrier: Porter
Insert LC: 38350.0201 Title: .0300

SECTION 3. AMENDMENT. Subsection 1 of section 25-03.1-26 of the North Dakota Century Code is amended and reenacted as follows:

1. A public treatment facility immediately shall accept and a private treatment facility may accept on a provisional basis the application and the person admitted under section 25-03.1-25. The superintendent or director shall require an immediate examination of the subject and, within twenty-four hours after admission, ~~exclusive of weekends and holidays~~, shall either release the person if the superintendent or director finds that the subject does not meet the emergency commitment standards or file a petition if one has not been filed with the court of the person's residence or the court which directed immediate custody under subsection 2 of section 25-03.1-25, giving notice to the court and stating in detail the circumstances and facts of the case."

Renumber accordingly

Date: March ²⁶, 2003
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB ~~2345~~ 2345

House _____ HUMAN SERVICES _____ Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Rep Porter Seconded By Rep Potter

Representatives	Yes	No	Representatives	Yes	No
Rep. Clara Sue Price - Chair	✓		Rep. Sally Sandvig	✓	
Rep. Bill Devlin, Vice-Chair	✓		Rep. Bill Amerman		✓
Rep. Robin Weisz	✓		Rep. Carol Niemeier	✓	
Rep. Vonnie Pietsch	✓		Rep. Louise Potter	✓	
Rep. Gerald Uglem	✓				
Rep. Chet Pollert	✓				
Rep. Todd Porter	✓				
Rep. Gary Kreidt	✓				
Rep. Alon Wieland	✓				

Total (Yes) 12 No 1

Absent 0

Floor Assignment Rep Potter

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

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Deanna Hall
Operator's Signature

10/22/03
Date

REPORT OF STANDING COMMITTEE (410)
March 27, 2003 8:22 a.m.

Module No: HR-55-5859
Carrier: Porter
Insert LC: 38350.0202 Title: .0400

REPORT OF STANDING COMMITTEE

SB 2345, as engrossed: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed SB 2345 was placed on the Sixth order on the calendar.

Page 1, line 1, after "25-03.1-04" insert ", subsection 3 of section 25-03.1-21, and subsection 1 of section 25-03.1-26"

Page 1, line 2, replace "the preparation of health care directives" with "the disclosure of health information and mental health commitment procedures"

Page 1, after line 23, insert:

"SECTION 2. AMENDMENT. Subsection 3 of section 25-03.1-21 of the North Dakota Century Code is amended and reenacted as follows:

3. If a peace officer, physician, psychiatrist, clinical psychologist, or any mental health professional reasonably believes that the respondent is not complying with an order for alternative treatment or that the alternative treatment is not sufficient to prevent harm or injuries to the respondent or others, and that considerations of time and safety do not allow intervention by a court, the designated professional may cause the respondent to be taken into custody and detained at a treatment facility as provided in subsection 3 of section 25-03.1-25 and, within twenty-four hours, exclusive of weekends and holidays, shall file a notice with the court stating the circumstances and factors of the case. The state hospital or public treatment facility must immediately accept, and a private treatment facility may accept, the respondent on a provisional basis. The superintendent or director shall require an immediate examination of the respondent and, within twenty-four hours after admission, exclusive of weekends and holidays, shall either release the respondent subject to the conditions of the original order or file a notice with the court stating in detail the circumstances and factors of the case. The court shall, within forty-eight hours of receipt of the notice of the superintendent or director, after a hearing and based on the evidence presented and other available information:
 - a. Release the individual from hospitalization and continue the alternative treatment order;
 - b. Consider other alternatives to hospitalization, modify its original order, and direct the individual to undergo another program of alternative treatment for the remainder of the commitment period; or
 - c. Enter a new order directing that the respondent remain hospitalized until discharged from the hospital under section 25-03.1-30.

SECTION 3. AMENDMENT. Subsection 1 of section 25-03.1-26 of the North Dakota Century Code is amended and reenacted as follows:

1. A public treatment facility immediately shall accept and a private treatment facility may accept on a provisional basis the application and the person admitted under section 25-03.1-25. The superintendent or director shall require an immediate examination of the subject and, within twenty-four hours after admission, exclusive of weekends and holidays, shall either release the person if the superintendent or director finds that the subject

(2) DESK, (3) COMM

Page No. 1

HR-55-5859

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10/22/03
Date

REPORT OF STANDING COMMITTEE (410)
March 27, 2003 8:22 a.m.

Module No: HR-55-5859
Carrier: Porter
Insert LC: 38350.0202 Title: .0400

does not meet the emergency commitment standards or file a petition if one has not been filed with the court of the person's residence or the court which directed immediate custody under subsection 2 of section 25-03.1-25, giving notice to the court and stating in detail the circumstances and facts of the case."

Renumber accordingly

(2) DESK, (3) COMM

Page No. 2

HR-55-5859

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10/22/03
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2003 SENATE HUMAN SERVICES

CONFERENCE COMMITTEE

SB 2345

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10/22/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2345

Senate Human Services Committee

☒ Conference Committee

Hearing Date April 8, 2003

Tape Number	Side A	Side B	Meter #
1	X		0 - 1008
Committee Clerk Signature <i>Donna Kramer, Clerk</i>			

Minutes:

SENATOR BROWN opened the committee discussion on SB 2345 relating to the preparation of health care directives.

The roll call was read. Members present were: Senator Brown, Senator Erbele, Senator Polovitz, Representative Porter, Representative Wieland, and Representative Potter.

REPRESENTATIVE PORTER explained SB 2345 as it was when it came to them. ...

Number of days as to requiring of paperwork and the number of days that an individual could be held on a containment order were different ... there was some confusion. ... Healthcare

Association asked just to remove Sections 2 and 3 on this side to alleviate the confusion of the two, but to pass Section 1 which is in regards to the medical records and the ability to get the medical records. ... There was a joint Human Services - Judiciary meeting. ... Changed the 2045 to have the same language as 2345. ... Sections 2 and 3 is in regard to the filing of the paperwork on a commitment order Changing code to read the same - actually in some

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Operator's Signature

10/22/03
Date

Page 2
Senate Human Services Committee
Bill/Resolution Number SB 2345
Hearing Date April 8, 2003

instances ... allows for earlier release. Comfortable with making the changes putting those changes back in ... during your hearing process, a lot of the information was not presented to you.

SENATOR POLOVITZ: Are you saying people can be held a whole week because of paperwork?

REPRESENTATIVE PORTER: No. Hearing has to be held on whether they can remain in custody within 7 days. The paperwork to file the notice with the court is done typically right away. But, on weekends there is a problem of actually filing the paperwork and what this says is that the 24-hour filing requirement is in place Monday through Friday and it is not in place over the weekend. So, if someone had to file on a weekend, they certainly can file that paperwork. But, they do not have to file until Monday morning.

Continued discussion with **SENATOR POLOVITZ** regarding people on call ... maximum amount of time an individual may be held is 7 days this bill has only to do with the filing of the paperwork.

SENATOR POLOVITZ: Clarify the committal of the individual.

SENATOR BROWN: Why two different bills dealing with the same issue?

REPRESENTATIVE PORTER: No overlap. SB 2045 deals committal process - hearing process. SB 2345 is for the filing of the paperwork. If SB 2045 is defeated will still need paperwork.

Continued discussion with **Arnold Thomas of Healthcare Association** and **John Olson**, representing the **States Attorneys Association**, and they stated being okay with the bill.

SENATOR ERBELE made a motion to Accede to the House Amendments.

SENATOR POLOVITZ seconded the motion.

Page 3
Senate Human Services Committee
Bill/Resolution Number SB 2345
Hearing Date April 8, 2003

Roll call was read. 6 yeas 0 nays. Motion carried.

Meeting was adjourned. (Meter # 1047)

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Deanne Waller
Operator's Signature

10/22/03

Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2345

Senate Human Services Committee

☒ Conference Committee

Hearing Date April 13, 2003

Tape Number	Side A	Side B	Meter #
1	X		0 - 400

Committee Clerk Signature

Donna Kramer, Clerk

Minutes:

SENATOR BROWN opened the conference committee hearing for SB 2345.

Roll call was read. Members present were: Senator Brown, Senator Erbele, Senator Folovitz, Representative Porter, Representative Wieland, and Representative Potter.

SENATOR BROWN stated the committee had met before and dealt with SB 2345. The bill has to do with involuntary commitment. In Section 1, the change was allowing a health professional to talk to another health professional about the individual who had just been committed. If the involuntary individual refuses to allow the two professionals to talk each other and the individual is on some kind of medication, the doctor involved with the commitment needs to know. We need this section. That is way it passed out of the Senate - with Section 1. Section 2 and 3 - the House amended on to the bill and the only change in law would be (had it passed) the words "exclusive of weekends and holidays". Sections 2 and 3 failed in the Senate the other day (22 to 22) and that's why we're back in session. I would recommend and ask for

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Operator's Signature

10/22/03
Date

Page 2

Senate Human Services Committee

Bill/Resolution Number SB 2345

Hearing Date April 15, 2003

some discussion and ask that the House would recede on their amendments. We already did get "weekends and holidays" excluded in SB 2045 which reduced the maximum time the involuntary commitment can be from 7 to 4 days. Talked to an attorney in Meritcare in Fargo (and they are the group that asked for this) and he was willing to have you drop this. Strong feelings in your caucus against this

REPRESENTATIVE PORTER: I know that they have had discussions with the Healthcare Association and they definitely need Section 1 out of this bill. another day

Moved that the House recede from the House amendments.

REPRESENTATIVE POTTER: Seconded the motion.

Roll call was read. 6 yeas 0 nays. Motion carried.

Senator Brown to be the carrier.

Conference Committee adjourned. (Meter # 400)

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Operator's Signature

10/22/03
Date

Date: 04-08-03
Roll Call Vote #: ①

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2345

Senate Human Services Committee

☒ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Accede to House Amendments.

Motion Made By

Sen. Erbele

Seconded By

Sen. Polovitz

Senators	Yes	No	Representatives	Yes	No
Senator Brown	✓		Representative Porter	✓	
Senator Erbele	✓		Representative Wieland	✓	
Senator Polovitz	✓		Representative Potter	✓	

Total (Yes) 6 No 0

Absent _____

Floor Assignment _____

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

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10/22/03
Date

REPORT OF CONFERENCE COMMITTEE (420)
April 9, 2003 3:22 p.m.

Module No: SR-64-7214

Insert LC: .

REPORT OF CONFERENCE COMMITTEE

SB 2345, as engrossed: Your conference committee (Sens. Brown, Erbele, Polovitz and Reps. Porter, Wieland, Potter) recommends that the **SENATE ACCEDE** to the House amendments on SJ page 1011 and place SB 2345 on the Seventh order.

Engrossed SB 2345 was placed on the Seventh order of business on the calendar.

(2) DESK, (2) COMM

Page No. 1

SR-64-7214

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Deanna Hall
Operator's Signature

10/22/03
Date

Date: 04 - 15 - 03
Roll Call Vote #:

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2345

Senate Human Services Committee

☒ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken House recede from House amendments

Motion Made By Rep. Porter Seconded By Rep. Potter

Senators	Yes	No	Senators	Yes	No
Senator Brown	✓		Representative Porter	✓	
Senator Erbele	✓		Representative Wieland	✓	
Senator Polovitz	✓		Representative Potter	✓	

Total (Yes) 6 0

Absent _____

Floor Assignment Sen. Brown

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

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Deanna Waller 10/22/03
Operator's Signature Date

REPORT OF CONFERENCE COMMITTEE (420)
April 15, 2003 3:03 p.m.

Module No: SR-68-7768

Insert LC: .

REPORT OF CONFERENCE COMMITTEE

SB 2345, as engrossed: Your conference committee (Sens. Brown, Erbele, Polovitz and Reps. Porter, Wieland, Potter) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 1011 and place SB 2345 on the Seventh order.

Engrossed SB 2345 was placed on the Seventh order of business on the calendar.

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10/22/03
Date

2003 TESTIMONY

SB 2345

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10/22/03
Date

MJM, AG, 2/6/2003 9:47 AM

PROPOSED AMENDMENTS TO SENATE BILL NO. 2345

Page 1, line 15, replace, "the regional human service center may have access to medical" with "and the individual that is the subject of the screening does not authorize the disclosure of their protected health information, then, subject to the requirements of title 42, Code of Federal Regulations, part 2, upon a request of the regional human service center, any mental health professional who has treated the individual within the previous six months shall disclose to the human service center any relevant current protected health information regarding that treatment"

Page 1, remove line 16

Page 1, line 17, remove "authorizes the release of the medical records"

Page 1, line 21, after the period following "individual" insert, "As used in this section 'current protected health information' means information relating to treatment the individual within six months of the date of the request for the information."

Renumber accordingly



STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

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10/22/03
Date

Senate Human Services Committee
Fifty-eighth Legislative Assembly of North Dakota
Senate Bill No. 2345
February 4, 2003

Good morning, Chairman Lee and Members of the Senate Human Services Committee. I am David Boeck, a State employee and lawyer for the Protection & Advocacy Project. The Protection & Advocacy Project serves people with disabilities, some of whom are directly involved in admission to the State Hospital.

Regional Human Service Centers screen everyone who voluntarily or involuntarily seeks admission to the State Hospital. Senate Bill No. 2345 would weaken the confidentiality of a person's mental health records in the screening process.

The bill provides whenever a "qualified mental health professional" requests a regional human service center (RHSC) to screen a patient for treatment at the State Hospital, the RHSC automatically may have access to the qualified mental health professional's records about the patient. This bill would not permit a patient to prevent disclosure of any records maintained by the qualified mental health professional.

Currently, RHSCs screen patients without digging into private mental health treatment records. There is no need to compromise the confidentiality of these records. The person's mental health records are available through the judicial process when that is necessary.

Screening provides an independent assessment of the need for inpatient treatment. If RHSCs get automatic access to another qualified mental health professional's files, it destroys the independence of that assessment. This substantially compromises the value of RHSC screening.

P&A urges you not to accept the changes proposed in lines 14-17 on page one of the bill.

The bill also proposes to lengthen the time that may pass before a court receives notice that someone is involuntarily in custody for breach of an alternative treatment order. The bill would expand the current 24-hour limit to 96 hours when a weekend and holiday are part of the time. This is too long.

The North Dakota district courts are always open. At a meeting on November 20, 2000, the state Council of Presiding Judges agreed that at least one district judge is always available in each judicial district for judicial business.

Law enforcement personnel and prosecutors get search warrants and arrest warrants at all hours, even on weekends and holidays. It would be no greater intrusion on judicial resources to notify the court that someone is involuntarily in custody for breach of an alternative treatment order.

The bill would also lengthen the time the State Hospital, a public treatment facility, or a private treatment facility may hold a person, who allegedly has violated the terms of an alternative treatment order, before providing notice to the court or releasing the person. This extension is unjustified.

The bill would also lengthen the time a public or private treatment facility may hold a person on an emergency civil commitment basis before providing notice to the court or releasing the person. The current process permits the immediate denial (for up to 24 hours) of a proposed patient's right to liberty and freedom. It is unnecessary to prolong the denial of these rights.

Each extension of time proposed in SB 2345 would allow current time limits to expand for weekends and holidays. Apparently, each extension would be for the convenience of professionals in the mental health system. Professionals sometimes have to accept inconveniences to fulfill their professional responsibilities.

Page 2 of 3

Federal law (the Emergency Medical Treatment and Active Labor Act) already requires that every hospital immediately screen and stabilize emergency patients. This includes emergency psychiatric patients. A hospital that violates this provision risks its ability to continue to receive payment from the Medicaid and Medicare programs.

Thank you. I am happy to answer any questions you may have.

Page 3 of 3

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10/22/03
Date

HOUSE HUMAN SERVICES COMMITTEE

Senate Bill No. 2345

March 10, 2003

Good afternoon, Chairman Price and Members of the House Human Services Committee. I am Corinne Hofmann, Director of Policy and Operations for the Protection & Advocacy Project. The Protection & Advocacy Project serves people with disabilities, some of whom are directly involved in admission to the State Hospital.

Regional Human Service Centers screen everyone who voluntarily or involuntarily seeks admission to the State Hospital. Senate Bill No. 2345 would weaken the confidentiality of a person's mental health records in the screening process.

The bill provides whenever a "qualified mental health professional" requests a regional human service center (RHSC) to screen a person for treatment at the State Hospital, the RHSC automatically may have access to the qualified mental health professional's records about the person. This bill would not permit a person to prevent disclosure of any records maintained by the qualified mental health professional.

A person is less likely to seek treatment if their expectation of confidentiality and privacy is compromised. For those seeking help, release of records without permission will undoubtedly have a negative impact on existing therapeutic relationships. The overall quality of services for people with mental illness will be damaged by overriding existing requirements for confidentiality.

Currently, RHSCs screen patients without automatic access to private mental health treatment records. There is no need to compromise the confidentiality of these records. Screening should provide an independent assessment of the need for inpatient treatment. If RHSCs get automatic access to another qualified

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Deanna Stallen
Operator's Signature

10/22/03

Date

mental health professional's files, it destroys the independence of that assessment. This substantially compromises the value of RHSC screening.

P&A urges you to vote against Senate Bill 2345.

Thank you. I am happy to answer any questions you may have.

Page 2 of 2

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