

Testimony  
Of  
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Pharmacy Ownership Law

Chairman Berg and members of the Committee, thank you for the opportunity to comment on the Pharmacy Ownership Law. Century Code 43-15-35(1)(e). I am the Vice President and General Counsel of Medcenter One Health System. I also work with the Health Policy Consortium which consists of Medcenter One, Altru, Meritcare and Trinity health systems. The HPC opposes the Pharmacy Ownership Law and joins in the position statement offered by the North Dakota Hospital Association.

My testimony is in clarification of two points:

**1. The Pharmacy Ownership Law currently prohibits hospitals from providing additional access in rural areas.**

Concerns have been expressed that the repeal of the Pharmacy Ownership Law and introduction of competition into the state may limit access to pharmacy services in rural areas. There are many hospitals serving rural North Dakota that would be interested in providing retail pharmacy services. These hospitals currently provide pharmacy services to inpatients of the hospital by a Class B permit. They have much of the infrastructure and all of the expertise necessary to provide retail pharmacy services.

The prohibition is nothing more than economic protectionism. It has nothing to do with ensuring quality. This point is driven home by the amendment to the Pharmacy Ownership Law last session permitting a hospital to operate retail pharmacies in rural communities but only if it is the sole provider and the pharmacy had been in existence before the hospital took over. Cent. Code 43-15-35(2)(e). In other words, the existing pharmacist-owned business continues to enjoy a monopoly in a rural community but has the ability to sell to a hospital if there are no other pharmacies in town. The law does not permit a rural hospital to start its own retail pharmacy even if no retail pharmacy exists in the town.

**2. How does the public benefit from the Pharmacy Ownership Law?**

It has been difficult to find written material setting forth the legislative intent supporting the Pharmacy Ownership Law. Increased quality is the rationale supporting statutes like the Pharmacy Ownership Law or prohibitions on the corporate practice of medicine. The theory is that for profit corporations may make decisions based upon profit motive that sacrifice patient care considerations. There is no evidence supporting this rationale nationally. North Dakota hospitals have a demonstrated track record of

quality in running inpatient pharmacies and retail pharmacies for those under the grandfathered status. It is ironic that North Dakota hospitals are permitted to employ physicians -- the professionals who write the prescriptions -- but not the pharmacists who fill the prescriptions. See Cent. Code 43-17-42. In 2008, I'm not sure how the Pharmacy Ownership Law benefits the citizens of North Dakota. As the Interim Committee considers the law, it may be helpful to restate the public policy rationale supporting the Pharmacy Ownership Law.