



2021 HB 1377
House Human Services Committee
Representative Robin Weisz, Chairman
January 25, 2021

Chairman Weisz and members of the House Human Services Committee, I am Tim Blasl, President of the North Dakota Hospital Association (NDHA). I am here to testify in opposition to House Bill 1377. I ask that you give this bill a **Do Not Pass** recommendation.

I am here on behalf of hospitals in opposition to the bill because it would allow anyone who is required to receive an immunization for any purpose, including as a condition of employment, school attendance, or licensure, to claim an exemption from the immunization requirement if there is not a vaccine approved by the Food and Drug Administration (FDA) which meets certain criteria. We are concerned that the criteria would rarely, if ever, be met, especially with certain vaccinations that are very important in the health care setting such as influenza vaccines. This bill will become an outright prohibition on mandatory vaccinations, which is very problematic in the health care setting.

In the healthcare setting, immunizations don't just protect vulnerable patients, they also protect employees. 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 get appropriate vaccines to reduce the chance that they will get or spread vaccine-preventable diseases. Even those workers not directly involved in patient care can potentially be exposed to infectious agents that can be transmitted to and from patients.

Patients who require hospitalization are often the most vulnerable and need more protection. Hospitals and health care workers have a shared responsibility to prevent occupationally acquired infections and avoid causing harm to patients by taking reasonable precautions to

prevent transmission of vaccine-preventable diseases. We are concerned that the bill would prohibit any healthcare provider from being able to require a vaccine as a condition of employment. It would mean that vaccination programs would no longer be an essential part of hospital infection prevention and control. Vulnerable patients would not be as protected as they could and should be.

The bill will allow an employee to claim an exemption from an immunization requirement unless:

- The pivotal clinical trial the FDA relied upon to approve the vaccine evaluated the safety of the vaccine for at least one year after the vaccine was administered against a control group that received either a placebo or another vaccine that meets this criteria.
- The state department of health posts on its website the injuries or diseases caused by the vaccine and the rate at which the injury or disease occurs from the vaccine.
- The risk of permanent disability or death from the vaccine has been proven to be less than that caused by the infection the vaccine is intended to prevent.
- The vaccine's manufacturer has liability, including for design defect claims, for any death or injury caused by the vaccine.

These requirements would be very difficult, if not impossible to meet. For example, influenza vaccines are updated each year to accommodate for different strains and changes in the virus from season to season. So, vaccines such as these will likely not be studied for at least one year after they were administered against a control group. Additionally, federal laws govern vaccine manufacturers' liability. These laws provide immunity from civil liability for certain vaccine manufacturers in order to ensure the manufacturers will be willing and able to produce vaccines. Injuries are dealt with under these laws much like workers compensation statutes with an injury compensation program operated by the government.

North Dakota should implement policies that are aimed at increasing immunization rates, not policies that undermine vaccination efforts. Failure to vaccinate not only puts the unvaccinated individual at risk, but also anyone they come into contact with — including those too young to be immunized and people who, for medical reasons, cannot be vaccinated. It is imperative that North Dakota continues to allow healthcare providers the ability to determine which immunizations are necessary to keep patients and employees safe.

Especially as the COVID-19 pandemic continues, we are reminded of the importance of vaccines and their ability to stop the spread of disease and save lives. Rather than telling employers what they cannot do, we see a need for greater engagement. The small (albeit vocal) minority of people who refuse vaccines outright rarely change their minds. The much larger hesitant population, however, does respond to information campaigns. Therefore, rather than prohibiting vaccination mandates outright, we would prefer to see greater investment in education and more efforts to facilitate meaningful conversations between concerned people and health-care professionals. We ask that health care providers be given the flexibility to determine appropriate immunization and infection control policies that are best for their patients and employees.

For these reasons, we urge you to oppose House Bill 1377 and give it a Do Not Pass recommendation. I would be happy to respond to any questions you may have. Thank you.

Respectfully Submitted,

Tim Blasl, President
North Dakota Hospital Association