



2021 HB 1352
House Industry, Business and Labor Committee
Representative Mike Lefor, Chairman
January 26, 2021

Chairman Lefor and members of the House Industry, Business and Labor Committee, I am Tim Blasl, President of the North Dakota Hospital Association (NDHA). I am here to testify in opposition to House Bill 1352. I ask that you give this bill a **Do Not Pass** recommendation.

The bill provides that a "medical product" cannot be required by the state, a political subdivision, or a business as a condition of employment, the entry to a business, public building, or space, or the receipt of a service or good unless the manufacturer of the medical product is liable for any death or serious injury caused by the medical product. "Medical product" is defined as a drug, biologic, or medical device.

We are concerned about the implications of such a broad prohibition and how it could impact health care, especially in infection control and prevention. Vaccines are considered to be a drug and would thus be included within the definition of medical product. Certain immunizations are very important in the health care setting, such as influenza vaccines, not only to protect vulnerable patients, but to 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.

This bill will become an outright prohibition on vaccinations, with no exception for the health care setting. 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 prohibit an employer from having an immunization requirement unless the vaccine manufacturer has liability, including for any death or injury caused by the vaccine. This requirement would be difficult, if not impossible, to meet. Federal law governs vaccine manufacturers' liability. The law 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 in lieu of other remedies like civil lawsuits.

North Dakota should implement policies that are aimed at increasing immunization rates, not policies that undermine vaccination efforts. 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. Instead of 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 1352 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