

Good morning, Chairmen Weisz and Lee and members of the Joint Technical Corrections Committee. My name is Dr. Nizar Wehbi and I am the North Dakota State Health Officer. I am here to provide information on House Bill 1511.

Overall, the bill limits the ability for businesses, group homes, universities, sports teams, correctional facilities, and the health care industry to choose to offer the safest work environment for its employees and the safest environment for customers, students, residents and patients.

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

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

Although this bill specifies these three tools cannot be used specifically to assess COVID-19 status, it needs to be recognized that these tools are basic preventive health principles that form the basis for policies that are used routinely for diseases such as hepatitis B, tuberculosis, influenza and others.

Both vaccination and natural infection result in immunity for most people. However, the duration of this immunity is not completely understood. Immunity after infection may vary with age, health status, severity of infection and time since infection. Antibody testing cannot be used to determine immunity, whether or not the immunity is due to natural infection or vaccination. The following should be kept in mind when it comes to antibody testing¹:

1. We don't yet know what level of antibodies is needed to protect against COVID-19 infection.

¹ <u>Science Brief: SARS-CoV-2 Infection-induced and Vaccine-induced Immunity | CDC</u>

- 2. Results from these tests cannot be used to determine immunity to infection with SARS-CoV-2, including potential future variants of the virus.
- 3. These tests cannot be used to diagnose a current infection and can cross react with antibodies to other human coronavirus. Four of these other coronaviruses circulate throughout the world and usually cause mild, cold-like illnesses.
- 4. Receiving the COVID-19 vaccine may cause the test to be positive.
- 5. Not all people produce detectable antibodies after infection and some people may experience faster declines in antibody levels leading to negative test results².
- 6. Testing months after infection may lead to positive antibody results, but does not mean the individual is protected for another 12 months.

The U.S. Food and Drug Administration, the Centers for Disease Control and Prevention, and the Infectious Disease Society of America are all in agreement that antibody testing should not be used to determine immunity to SARS-CoV-2 infections.

People who were previously infected are recommended to be vaccinated 90 days after their infection to ensure they are protected. A study out of Kentucky found that people who were vaccinated after infection were 2.34 times less likely to be reinfected³. Among U.S. adults hospitalized with symptoms similar to COVID-19, unvaccinated people who had COVID-19 recently were 5 times more likely to test positive for COVID-19 than people who were recently fully vaccinated.⁴

The other specific area I would like to address deals with testing frequency. The bill currently restricts testing by employers to a maximum of twice per week. Testing employees can be used to detect infections early and keep infected employees from coming to the workplace. However, people with

² <u>Predictors of Nonseroconversion after SARS-CoV-2 Infection - Volume 27, Number 9—September 2021 - Emerging Infectious Diseases journal - CDC</u>

³ <u>Reduced Risk of Reinfection with SARS-CoV-2 After COVID-19 Vaccination — Kentucky, May–June 2021</u> <u>MMWR (cdc.gov)</u>

⁴ <u>Laboratory-Confirmed COVID-19 Among Adults Hospitalized with COVID-19–Like Illness with Infection-Induced or mRNA Vaccine-Induced SARS-CoV-2 Immunity — Nine States, January–September 2021 | MMWR (cdc.gov)</u>

COVID-19 are infectious before symptoms start. Frequent testing is the best way to consistently detect infections early. Businesses and health care employers should have the ability to implement testing that best works for them to keep staff, customers, residents or patients as safe as possible. For example, if an employee is tested twice in one week, say on Monday and Wednesday, then develops symptoms at work Wednesday afternoon, now the employer would not be able to test the employee, because that employee has already been tested twice.

In conclusion, this bill limits the ability of business, including long term care facilities, congregate care facilities, universities, sports teams, corrections, and health care facilities to operate in a manner that maximizes the safety of patients, residents, staff, and health care providers. Parts of the bill are very restrictive as we learn new information about the disease. When testing is an option, that testing should not be limited but be done in a manner that keeps workplaces as safe as possible.

The SARS-CoV-2 virus is still evolving, and we still have much to learn about it. The unknowns associated with new virus variants and the inability to accurately predict transmission in our population warrant a cautious approach. We need to be able to respond, if needed, to increasing cases, increasing severity of disease or the ability of the virus to escape either vaccine induced or natural immunity.

I would be happy to answer questions at this time.