



HB 1200

House Human Services Committee

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Chair Weisz and members of the House Human Services Committee. My name is Katie Fitzsimmons, and I serve as the Director of Student Affairs for the North Dakota University System. I am here today on behalf of the North Dakota University System and its eleven institutions to provide **neutral** testimony related to HB 1200, provide consideration for an amendment, and enlighten the committee about the current process used throughout the North Dakota University System.

Currently, with respect to vaccination data, the eleven campuses engage in a process to obtain sufficient records to ensure the safety of all students on campus in the event of an outbreak. Providing proof of vaccination is not required. Students are given two options: 1) Provide MMR and meningitis vaccination record to the campus OR 2) Complete the immunization exemption form and decline to provide records to the campus.

Option two is for students who prefer to not disclose whether or not they have received vaccinations. We do not ask why a student is requesting an exemption; we simply ask so we know the possible impact of an outbreak, should one occur on our campus or community. If an outbreak were to occur, the students who exempted from the requirement would be considered not vaccinated. As such, those students might not be allowed to attend classes in person or live on campus until the threat of disease is no longer present; that would be dependent on the assessment and recommendations of the local public health unit.

We do not require any vaccination information from faculty, staff, or visitors to our campuses. However, if a faculty or staff member chooses to enroll in a course and attend it in person, they must also provide records or complete the exemption form.

Section 1 of the bill isn't entirely clear. Would our current process be in violation of these changes? The language states "An institution under control of the state board of higher education may not: a. require a student to be vaccinated against ...or receive an experimental vaccine, as a condition of enrollment or in-person attendance." We currently do not require any vaccine but asking for documentation one way or the other might be misconstrued to be a requirement for enrollment.

If our current process would no longer be allowed by state law, this could present challenges if an outbreak were to occur. If this bill moves forward, the North Dakota University System requests an indemnification clause to lift the liability of severe injury, loss of access to education, and death if such circumstances were encountered due to a case of measles, mumps, rubella, or meningitis. Our

concern lies in the ability to rapidly respond to possible cases of disease and we feel equipped to do so under our current process.

Furthermore, the University System seeks clarification on the definition of “promotion” of a vaccine. Essentially, does speaking about vaccines or providing education about vaccines qualify as “promotion”? Can the health care providers in our student health centers recommend a vaccine to a student, who is a patient? We have concerns about intervening into the confidential patient-physician relationship in that regard. Can the health center provide information on vaccines in brochures, flyers, emails, and other communications? What about student organizations that choose to host a program about vaccine education with professional speakers? Could a campus rent space to a public health conferences where vaccines are discussed? If there were an outbreak in our community, could student organizations circulate or coordinate volunteer events to staff vaccination sites or would this be considered “promotion” under this proposed legislation? Does promotion include flyers that Public Health posts on our campuses? If campuses have to restrict flyers that are posted on campuses, again we have great concerns about violating the First Amendment right to freedom of speech and expression in this regard. It opens up campuses to litigation and public scrutiny if advertising a flu shot clinic with flyers would no longer be legal. Therefore, the University System respectfully requests the committee to investigate the implications of banning promotion of vaccinations as they related to the First Amendment, and if a definition of “promotion” could be clearly defined.

This concludes my testimony related to HB 1200. I respectfully request consideration of our amendment, if our current process would no longer be allowed, and for more clarity on the limitation of promotion of vaccines. I will gladly work with the clerk and Legislative Council to draft such an amendment if necessary. I stand for questions from Committee members.