



Engrossed HB 1200

Senate Human Services Committee

March 8, 2023

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Chair Lee and members of the Senate 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 testimony in opposition to Engrossed HB 1200. The University System's perspective on this issue runs an interesting course. Our concerns have less to do with the topic of vaccination and more to do with management of vaccination records, the patient-provider relationship, and free speech. Further, we would recommend an amendment, should it move forward.

The campuses do not require proof of immunization in regards to SARS-CoV-2 for enrollment or in-person attendance. We do have documentation required for MMR and meningitis, but students are able to opt out of providing documentation painlessly. However, if a student is enrolled in a health program such as nursing, that student will eventually be required to work in a clinical or hospital setting, and such facilities require proof of vaccination. Currently, campuses collect the vaccination records on behalf of a healthcare system and provide consolidated affirmation of the vaccination status of their enrolled students. Would the language in section 1 prohibit campuses from accommodating the requirements of health facilities? If so, the task of collection of individual records of all students could be burdensome on those health facilities with which we maintain great working relationship. The University System would caution the committee in this area and would ask for clarification on the definition of "enrollment", the intent of the bill, and what would be allowable.

Furthermore, the language in section 1, subsection 1(b) provides the greatest concern and the reason for our opposition. The University System seeks clarification on the definition of "promotion" of a vaccine. Essentially, does *speaking* or *educating* about vaccines qualify as "promotion"? Can the healthcare providers in our student health centers recommend a vaccine to a student, who is a patient? Can the health center provide information on vaccines in brochures, flyers, emails, and other communications? If this would no longer be possible, this bill is a direct intrusion into the patient-physician relationship.

What about student organizations that choose to host a program about vaccine education with professional speakers? This hypothetical program could even provide a point of view that is in disagreement with the COVID-19 immunization yet would not be allowed on campus. Could a campus rent space to a public health conference if vaccines were a topic of discussion? If there was an outbreak in our community, could student organizations circulate or coordinate volunteer events to staff vaccination sites or would this be considered “promotion”? Does promotion include flyers that Public Health posts on our campuses? If campuses have to restrict flyers that are posted, we have great concerns about violating the First Amendment right to freedom of speech and expression in this regard; an issue that the Legislative body has discussed at length during the 64th, 65th, and 66th assemblies. Therefore, the University System respectfully requests the committee to investigate the implications of banning promotion of a vaccination from the lens of respecting the patient-physician relationship and upholding the First Amendment in a manner congruent with current federal and state laws. If the bill moves forward, the University System would be in favor of amending the language in the engrossed bill to strike section 1, subsection 1(b).

This concludes my testimony related to Engrossed HB 1200. I respectfully urge a Do Not Pass recommendation. If the bill moves forward, I humbly request for the committee to clarify language and assist the University System in understanding what would no longer be allowed, if anything, when it comes to management of vaccination records and consider our amendment suggestion of section 1, subsection 1(b). I stand for questions from Committee members.