

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO  
FIRST ENGROSSMENT**

**ENGROSSED SENATE BILL NO. 2109**

Introduced by

Industry and Business Committee

(At the request of Workforce Safety and Insurance)

1 A BILL for an Act to amend and reenact sections 65-01-02, 65-01-16, ~~and~~ 65-02-27, and  
2 65-05-08.3, subsection 1 of section 65-05-17, and subsection 4 of section 65-05-20.1 of the  
3 North Dakota Century Code, relating to the definition of disability, the definition of electronic  
4 means, forms and decisions issued by electronic means, requests for rehearing of an  
5 administrative order, health care provider opinions, maximum death benefits, and the  
6 scholarship fund; and to provide for application.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 65-01-02 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **65-01-02. Definitions. (Effective through August 31, 2028)**

11 In this title:

- 12 1. "Acute care" means a short course of intensive diagnostic and therapeutic services  
13 provided immediately following a work injury with a rapid onset of pronounced  
14 symptoms.
- 15 2. "Adopted" or "adoption" refers only to a legal adoption effected prior to the time of the  
16 injury.
- 17 3. "Allied health care professional" includes a health care provider, pharmacist,  
18 audiologist, speech language pathologist, or naturopath or any recognized practitioner  
19 who provides skilled services pursuant to the prescription of, or under the supervision  
20 or direction of any of these individuals.

1       **SECTION 4. AMENDMENT.** Section 65-05-08.3 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **65-05-08.3. Treating health care provider's opinion.**

- 4       1. A presumption may not be established in favor of any health care provider's opinion.  
5       The organization shall resolve conflicting medical opinions and in doing so the  
6       organization shall consider the following factors:
- 7       a. The length of the treatment relationship and the frequency of examinations;
  - 8       b. The nature and extent of the treatment relationship;
  - 9       c. The amount of relevant evidence in support of the opinion;
  - 10       d. How consistent the opinion is with the record as a whole;
  - 11       e. Appearance of bias;
  - 12       f. Whether the health care provider specializes in the medical issues related to the  
13       opinion; and
  - 14       g. Other relevant factors.
- 15       2. The organization may not rely solely on the medical opinion of an employee of the  
16       organization to deny a claim for benefits and shall inquire and give deference to the  
17       treating health care provider.
- 18       3. This section does not apply to managed care programs under section 65-02-20. For  
19       purposes of this section, the organization shall determine whether a health care  
20       provider is an injured employee's treating health care provider.

21       **SECTION 5. AMENDMENT.** Subsection 1 of section 65-05-17 of the North Dakota Century  
22 Code is amended and reenacted as follows:

- 23       1. To the decedent's spouse or to the guardian of the children of the decedent, an  
24       amount equal to the benefit rate for total disability under section 65-05-09. All  
25       recipients of benefits under this subsection are eligible for benefits at the rate provided  
26       in this section, regardless of the date of death of the deceased employee. These  
27       benefits continue until the death of the decedent's spouse; or, if the surviving children  
28       of the decedent are under the care of a guardian, until those children no longer meet  
29       the definition of child in this title. If there is more than one guardian for the children  
30       who survive the decedent, the organization shall divide the death benefits equally  
31       among the children and shall pay benefits to the children's guardians. Total death