



Testimony prepared for the Senate Human Services Committee
HB 1450 – Related to Parent/Guardian Access to Medical Examination Room of Minor
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Chair Lee, and members of the Senate Human Services Committee, my name is Kim Jacobson. I serve as the Director of Agassiz Valley Human Service Zone, which includes Traill and Steele counties, and as President of the North Dakota Human Service Zone Director Association. Thank you for the opportunity to testify in opposition to HB 1450.

Human service zones have a critical role in our state’s child welfare system. This includes serving as the legal designee to receive and assess reports of suspected child abuse and neglect (commonly known as CPS investigations), as well as foster care case management duties. As pediatric healthcare providers, and as mandated reporters, medical professionals are a critical partner to human service zones.

HB 1450 is filled with countless unintended consequences that will fail vulnerable children who are abused and neglected.

Concern #1: Medical Examination Definition: It is unclear if HB 1450 applies to all medical providers. Medical services may be provided as part of a child welfare assessment or law enforcement investigation — and not necessarily by primary care providers. Psychologists, psychiatrists, and medical forensic interviewers all participate as needed. A broad interpretation of HB 1450 will hinder human services and our partners as we perform our legally mandated responsibilities.

Concern #2: Applicability and Mandatory Reporting Interference: HB 1450 encroaches upon a safe space for children to communicate freely with trusted mandatory reporters. It limits a minor’s ability to ask for help or give truthful answers to appropriate, routine questions like “Do you feel safe at home?” or “How did you get that bruise?”

The bill does provide exemptions for a “legally emancipated minor” and a “suspected case of physical or sexual abuse when the provider has documented the concern and notified the appropriate authorities” (Page 2, Lines 7-8). However, these exemptions do not resolve our concerns. First, North Dakota law does not provide for minor emancipation. Therefore, this is

not a valid exemption. Second, requiring a provider to document and notify appropriate authorities prior to commencing the examination of a child may delay the assessment, treatment, and protection that the child is entitled. Conversely, because this bill is prohibitive of interactions that are sufficient to make informed reports, the medical community may resort to overreporting to err on the side of caution. Not only will this increase the burden on human service zones, but it will lead to unnecessary distress for children and families who are subjected to investigations that would not have been necessary if the medical provider had been able to appropriately engage with their patient.

Concern #3: Impairment of Medical Professional Ability to Examine and Treat Children: Medical providers need to examine the body to diagnose and treat. While examining a child for a common ailment, a provider may notice other concerning conditions. Examples include, but are not limited to, bruising, scarring, burns, lacerations, open wounds, and broken or misaligned bones.

Notably, consider the role of a school nurse. There is a direct intersection of our concerns regarding the definition of a medical exam, and interference with medical treatment and mandatory reporting duties. While school nurses do not conduct CPS assessments, they may be the first to respond to the concern of student injury. Upon reasonable suspicion of abuse or neglect they are required to report. Their interaction with students may include examinations, information that a student shares while reporting a health concern, or other encounter during a standard response to a student's health concern. House Bill 1450 may interfere with student care at school, and with a school nurse's ability to perform their mandatory reporting duties.

Additionally, the phrase "private area" is not defined, although it is used throughout HB 1450. Depending on the individual, this could be defined as the lower back, hip, chest, ribcage, armpit, inner thigh, abdomen, bra line, shoulders, groin, buttocks, etc. Our primary concern is that this may limit the ability of the provider to properly treat children. Secondarily, this may lead to legal and practice challenges for all providers.

Concern #4: Setting the Stage for Abusive Parents to Increase Harm: Parents who abuse or neglect their children often go to great lengths to conceal their behavior. Children and partners alike can be threatened, coerced, or coached into concealing the mistreatment. They also tend to isolate their victims. A medical appointment might be the only window of opportunity for the abuse to be observed and reported by someone who is both trained to see the signs and obligated to file the report. House Bill 1450 removes that valuable safety net, which is needed to protect vulnerable children.

Secondly, an abusive or neglectful parent may punish a child for answering a question in a way that they dislike. Requiring preliminary notification and disclosure to this extent increases the likelihood that the abuse or neglect will escalate after leaving the medical office. This may also adversely impact the child's future access to medical care, as the abusive caregiver may perceive routine medical attention as a threat.

Concern #5: Interference with Existing Authority Intended to Protect Children:

Contrary to widely held belief, the CPS system does not have the authority to remove children from the parental home on a temporary or long-term basis. Rather, the authority to remove children is reserved by law to three groups of professionals: law enforcement, the Director of Juvenile Court, and physicians. This authority is also temporary. Unless extended by a Juvenile Court order, removal cannot exceed 96 hours. These provisions are outlined in Section 50-25.1-07 of the North Dakota Century Code, which reads as follows:

Protective custody. Any physician examining a child with respect to whom abuse or neglect is known or suspected, after reasonable attempts to advise the parents, guardian, or other person having responsibility for the care of the child that the physician suspects has been abused or neglected, may keep the child in the custody of the hospital or medical facility for not to exceed ninety-six hours and must immediately notify the juvenile court and the department or authorized agent in order that child protective proceedings may be instituted.

The Zone Director Association understands and appreciates that HB 1450 is intended to preserve parental rights. Human service zones are a leading advocate for family reunification and preservation, which includes supporting parents to fulfill their legal responsibilities and exercise their legal authority. As Title 50 demonstrates, there are state laws in place to help zones and our partners, including healthcare professionals, maintain the often-delicate balance of child protection and parental rights.

However, HB 1450 weakens a physician's ability to exercise their responsibilities under law and ethical responsibility, which includes providing children with prompt, timely examination, and protective custody when necessary. This bill also has the unintended consequences of limiting the rights of children, including access to quality medical care. And it impairs the ability of mandated reporters to protect vulnerable children. The North Dakota Human Service Zone Director Association urges a "do not pass" vote on HB 1450.

Thank you for your consideration of my testimony. I stand for questions from the committee.