

**2025 HOUSE HUMAN SERVICES**

**HB 1391**

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

HB 1391  
2/4/2025

Relating to creating a new status related to human rights and antidiscrimination policies.
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3:58 p.m. Chairman M. Ruby opened the hearing.

Members Present: Chairman M. Ruby, Vice-Chairman Frelich, Representatives K. Anderson, Beltz, Bolinske, Davis, Dobervich, Fegley, Hendrix, Kiefert, Rios, Rohr

Members Absent: Representative Holle

### Discussion Topics:

- Protected health status
- Informed consent
- Additional filings
- Complexity

3:58 p.m. Representative Rohr, District 31, introduced the bill.

4:09 p.m. Jennifer Benson, Executive Director of the North Dakota American Experiment, testified in favor.

4:22 p.m. Dr. Peter McCollough provided video testimony in favor.

4:25 p.m. Dr. Scott Jensen, Former Minnesota Senator and Governor Candidate, provided video testimony in favor.

4:29 p.m. Kim Witczak, Consumer Representative on the FDA's Psychopharmacologic Drugs Advisory Committee, provided video testimony in favor.

4:38 p.m. Jennifer Neshim, private citizen, testified in favor.

4:43 p.m. Alexis Wangler, private citizen, testified in favor.

4:47 p.m. Zachary Greenberg, Interim Commissioner of the ND Department of Labor and Human Rights, testified in opposition and submitted testimony, #34561.

4:52 p.m. Arik Spencer, President and CEO of the Greater North Dakota Chamber, testified in opposition and submitted testimony, #34407.

### Additional written testimony:

#33801, #34091, #34188, #34200, #34325, #34426, #34439, #34447, #34448, #34469, #34489, #34502, #34618, #34625, #34662.

4:56 p.m. Chairman M. Ruby adjourned the meeting.  
*Jackson Toman, Committee Clerk*

Testimony  
**HB 1391**

February 3, 2025

Legislative Assembly of North Dakota

Dear members of the ND Legislative Assembly, my name is Stephanie Differding and I want to thank for the opportunity to offer my SUPPORT of House Bill 1391.

It is my my strong belief that no one should be discriminated on based on whether or not they have or have not received a medical procedure. People should have the absolute right to determine what procedures if any are needed for themselves and their minor children, and should not have their decision held against them. The COVID era put on full display the governments over reach and use of “emergency powers” that put people in jeopardy of losing their livelihoods, their educations and even their lives. No one should have to choose a potentially lethal or at the very least highly ineffective procedure to be able to work, shop, attend church, go to school etc.

Please support the passing of HB 1391

Respectfully,

Stephanie Differding



## **House Human Services Committee**

### **HB 1391**

**February 4, 2025**

Chairman Ruby and Committee Members, I'm Courtney Koebele and I serve as executive director of the North Dakota Medical Association. The North Dakota Medical Association is the professional membership organization for North Dakota physicians, residents, and medical students. NDMA opposes HB 1391 for the following reasons:

- This legislation restricts businesses' rights and freedoms to protect their employees, customers, and economic success from vaccine-preventable diseases.
- Healthcare institutions, group homes, and nursing/rehabilitation centers caring for patients would be unable to quickly and adequately enforce vaccine requirements.
- Educational institutions could not enforce vaccine requirements, undermining existing school requirements that have kept students and teachers safe for decades.
- Generally, there is caution in expanding protected classes around discrimination regarding other areas of the law. Yet, this bill does exactly that, creating a new protected class around the unvaccinated.

Thank you for the opportunity to address this committee. I would be happy to answer any questions.

My name is Gabe Gietzen and I wish to voice my support of House Bill 1391.

I am writing this based on my experience in the ND Army National Guard where I served for 28 years. I reached the rank of Command Sergeant Major/E-9 at the Battalion level and was in the pipeline for the next echelon level assignment.

However, I made the difficult decision to retire in February of 2022 with the primary factor being the DoD COVID Vaccine mandate issued in September 2021 under then President Biden.

I was in a command position and in good conscious could not support this mandate on healthy, low-risk individuals. I did try to inform as many Soldiers as I could regarding the Religious Exemption policy, but I know many who were eligible chose to retire instead. This mandate had a detrimental impact to recruiting and retention immediately following.

I realize this was a DoD matter and not a state issue but the concept of pushing a product onto a low-risk population with no liability for the manufacturer is an affront to liberty. As current events show, President Trump has signed an executive order to re-instate servicemembers who were kicked out because of this controversial vaccine mandate.

While I'm not anti-traditional vax having taken many in my military service, I am against the extreme use of coercion by various taxpayer funded government entities to force a choice between a job and vaccine or procedure. There needs to be a limit on overreach and use of "emergency powers" to push such controversial products onto the population. Time and data have shown that being skeptical of the COVID vax and standing for liberty was instinctively the right call.

Please support the passing of HB 1391 as it gives us protection against overreach but does not limit our right choose to get a vaccine or procedure if we want to.

Respectfully,

Gabe Gietzen

Fargo, ND

Chairperson and Members of the Committee,

My name is Laurie Stromme and I am writing today in strong support of the medical freedom provisions within this bill. I have always believed in the right of individuals to make informed choices about their own bodies. True medical freedom means having the ability to weigh risks and benefits, to seek second opinions, and to ultimately decide what is best for us and our families—without coercion, fear of discrimination, or government mandates.

But with freedom comes risk. We each bear responsibility for our choices, and that is how it should be. The problem arises when individuals are stripped of that freedom and forced into medical decisions they may not fully agree with. I personally know young adults who were compelled to receive the COVID-19 vaccine just to finish their college degrees—despite their concerns, despite their personal health histories, and despite the lack of long-term data at the time. Now, some of them are dealing with unexpected and life-altering health issues they didn't have before. That is not true informed consent. That is coercion.

The government should never stand between a person and their right to choose what medical interventions they accept or refuse, not only for themselves, but for their children. Whether it's vaccines, medications, or other treatments, individuals must have the ability to make their own decisions based on their unique circumstances, health concerns or religious views. No one should have to choose between their education, career, or participation in society and a medical intervention they do not consent to.

This bill is about restoring and protecting a fundamental right—the right to medical autonomy. I urge you to support it, not just because it aligns with the principles of freedom, but because real people, real families, and real lives are affected when that freedom is taken away.

Thank you.

Laurie Stromme  
717 12<sup>th</sup> Ave W  
West Fargo, ND 58078  
701-261-8344

**House Human Service Committee**  
**Feb 5th, 2025 HB 1391**  
**Testimony in Opposition**

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Dear Chair Ruby and the members of the House Human Service Committee,

I urge a "Do Not Pass" on HB 1391.

Some reporting by [North Dakota Monitor in August of last year](#), revealed the unfortunate trend of less youth being fully vaccinated against preventable diseases. Nationally, we have seen a rise in [such things like Polio, due to anti-vaccination beliefs](#).

While I think reasonable people could understand the concerns individuals have around such vaccines like COVID, the panic that centered on COVID vaccinations has created distrust in our medical institutes that we've relied on for decades to keep our populations safe.

In this time vaccine misinformation has stoked fear and led to an abandoning of public health practices that saved lives. While our governments choose not to make COVID vaccines mandatory, people's choice to not get vaccinated resulted in several hundred thousand preventable deaths by many different estimates, some showing even greater impact. But that data does require trusting public health organizations, which I understand is a poor argument for folks who take an anti-vax position.

Regardless, to balance the liberty people enjoy with their risk of harming their kids or neighbors, we imposed restrictions based on their vaccine status. This balances public health against the harm people pose who willingly spread diseases. As the statement has echoed across law theory for some time, a person's right to infect me should stop at my nose.

I work in healthcare and would prefer further restrictions to protect vulnerable populations, especially people's children from the harm of things like Polio or Whooping Cough. I believe vaccines should be mandatory. But the compromise we've come to as a society is to let someone who wishes to go against public health do so, but also to be barred from hurting others for their choices.

What HB 1391 does is give people the freedom to infect. It empowers separatists who want to benefit from a society, while holding no responsibility towards it. And as we think about public health, society, and liberty we must as adults understand there must be compromise. There are several aspects of society that are not exactly how I'd like them, but I understand there is some consensus to this of give and take. And in this regard, I urge a Do not Pass.

Thank you for your time, consideration, and service to our state,  
Faye Seidler



GREATER NORTH DAKOTA CHAMBER  
HB 1391  
House Human Services Committee  
Chair Matthew Ruby  
Feb. 4, 2025

Mr. Chairman and members of the Committee, my name is Arik Spencer, and I am the President and CEO of the Greater North Dakota Chamber. GNDC is North Dakota's largest statewide business advocacy organization, with membership represented by small and large businesses, local chambers, and trade and industry associations across the state. We stand in **opposition** to House Bill 1391.

GNDC believes the Legislature should enact pro-business policies and timely processes that improve the legal and regulatory environment. HB 1391 does the opposite by creating a new protected employee classification, which will expose employers to increased legal liability.

Under existing law, employers are required to provide reasonable accommodations for an employee's needs as they relate to being in a protected class as long as the accommodation does not:

- A. Unduly disrupt or interfere with the employer's normal operations;
- B. Threaten the health or safety of the individual with a disability or others;
- C. Contradict a business necessity of the employer; or
- D. Impose undue hardship on the employer, based on the size of the employer's business, the type of business, the financial resources of the employer, and the estimated cost and extent of the accommodation.

You can see this information on page 4, lines 17-23 of HB 1391.

The North Dakota Human Rights Act already protects employees from having to disclose vaccination status by making it illegal for employers to ask interview questions that can expose a disability unless it is job-related and consistent with a business necessity.

Should HB 1391 pass, employers in critical industries, such as the healthcare sector, would be required to assess whether someone's lack of vaccine poses a direct threat to the employee, other employees, or customers/patients. If it does, the employer would not have to accommodate the employee.

Whether the employer accommodated the employee or not, this new protected class needlessly exposes employers to legal liability from the employee if the employer cannot make an accommodation or if a co-worker, customer, or patient contracts an infectious disease and asserts the business was negligent for not requiring vaccinations.

We urge a DO NOT PASS on HB 1391





**Testimony in Opposition to House Bill 1391**  
**House Human Services Committee**  
**February 4, 2025**

Chairman Ruby and Members of the House Human Services Committee, my name is Reier Thompson, and I am the President and CEO at Missouri Slope here in Bismarck. Thank you for the opportunity to provide testimony in opposition to House Bill 1391. I strongly urge the committee to give this bill a **Do Not Pass** recommendation.

**The Consequences of HB 1391 on Healthcare Facilities**

As a healthcare provider, I recognize the importance of fair practices in all staffing related matters, especially with the workforce shortage we are experiencing in this industry. However, HB 1391 significantly reduces our ability to make decisions that will ultimately protect the lives of over 300 residents and tenants that live with us at Missouri Slope. Taking away our ability to mandate influenza vaccinations for our employees will create an environment that is less safe for the severely compromised individuals we care for every day.

When I began my career at Missouri Slope in 2013, we did not have an employee mandate for the influenza vaccination. We offered it voluntarily and about a third of our employees would get vaccinated. After many years of high rates of infection among our residents, we decided to implement the vaccination mandate in 2015. Our rates of infection decreased dramatically the following year and all years since have continued to yield very low rates of infection.

**Impact on Residents**

All people receiving care in a nursing facility must have a physician's order stating this level of care is necessary. The majority of nursing facility residents have multiple comorbidities which leaves them vulnerable to diseases such as influenza. They do not have healthy immune systems fighting the virus causing influenza and their symptoms can be severe, or even deadly. Our duty is to protect the health of our residents through whatever means necessary to assure maximum safety and comfort.

**Impact on Workforce**

When we began the influenza vaccination mandate, we had few if any employees who did not comply with the policy and terminate their employment. We look at this as a commitment not only to our residents, but also the employees who expect to work in a safe environment. Doing all we legally can to prevent the spread of influenza through a vaccination mandate has improved the health of our workforce and lowered lost days due to illness.

Occasionally, we have employees seek medical or religious exemptions to the mandate. These are examined on a case by case basis for approval or denial. There are times when employees

have decided not to begin employment due to the mandate and their choice not to get vaccinated. Given the workforce crisis in healthcare, these situations are not desirable. However, the overall effect is minimal as we continue to staff our buildings at levels which meet or exceed state and national standards.

### **Too Many Regulations**

Skilled nursing facilities are under a great deal of stress from the hundreds of regulations imposed upon us by the government. The number, complexity, and severity of these regulations has grown immensely during my 15 years of healthcare experience. The last thing we need is another regulation stipulating what we can or cannot do while operating our facilities.

### **Conclusion**

Healthcare facilities provide critical care to North Dakota's elderly and most vulnerable residents. HB 1391 will take away our ability to make decisions we feel are necessary to provide safe, high quality care.

I urge the committee to reject HB 1391 and instead pursue policies that support, rather than weaken, North Dakota's health care system.

Thank you for your time and consideration. I am happy to answer any questions you may have.

Reier Thompson, MBA, LNHA, HSE  
President/CEO  
Missouri Slope  
Bismarck, ND  
701-223-9407

I am physician and founder of Americans for Health Freedom who supports HB1391.

Medical mandates violate basic human rights. During the pandemic, I witnessed the distress of patients who were forced to choose between employment or an education and injecting a pharmaceutical product in their bodies. I practice in Houston, Texas and had privileges at Houston Methodist Hospital. This was the first hospital in the country to mandate the COVID shots, five months before the federal government imposed them. I had many patients come to me in distress, worried about the risks of taking shots that lacked long-term safety data. Informed consent was ignored during this time, and many of my patients succumbed to the pressure and got the shots against their will. Sadly, I have seen so many resulting injuries; seven percent of my new patients in the first two years following the rollout of the shots came to see me for severe and long-lasting side effects that have been very difficult to treat.

This was a dark time in our country's history and an unfortunate reminder that we need additional protections for the liberties of our citizens. HB1391 strengthens informed consent by protecting an individual's right to refuse a medical procedure, treatment, injection, device, vaccine or prophylactic. All medical interventions involve risk, and a universally understood tenet in the medical profession is that patients should never be persuaded or coerced to undergo any treatment that involves risk. As a surgeon, I am particularly sensitive to this. I've performed thousands of operations, and I've never bounded into the operating room without discussing potential complications - to do so would be blatant malpractice. I've never performed an experimental surgery, lacking long-term outcomes data, but if I were to do so, I would feel ethically bound to discuss the potential risks and be particularly forthright about the unknowns. And if I were going to perform an experimental operation on a healthy person in order to potentially save another person's life, the risks of that operations would have to be exceedingly low - and the benefits exceedingly high - to uphold my oath to "First do no harm." Finally, not once have I told a patient, "If you don't let me do this surgery on you, you will lose your job... or be denied an education.. or be discharged from he military." One simply cannot reconcile medical mandates with respecting patient autonomy.

Mary Talley Bowden MD  
Founder, Americans for Health Freedom

Hello I'm writing in favor of house bill 1391. I wish we as a society could stop having the same fight over this vaccine argument that is obviously a result of Covid-19. Unfortunately I think the state of North Dakota still has to do more to protect the citizens from people in positions of authority that are absolutely obsessed with never admitting they were wrong about anything they did or ordered done during Covid-19. And they seem prepared to carry this on forever. There are still many hospitals and healthcare organizations in the state that demand you get the covid vaccine for a form of the covid virus that does not even exist anymore and is not effective against in any way. The covid virus continually mutates just like the influenza virus so a vaccine from nearly 5 years ago is completely worthless yet to this day they want you to go and take "the two step dose" or you can't work for them. Then there's the organizations that say if you won't take it you have to wear a mask at all times, despite the fact that the covid vaccine is fully documented as having zero effect on the transmissibility of covid so it's just about coercing you into taking it so you don't have to wear the mask.

In preparing for writing this I was reading testimony that was submitted against another bill somewhat similar to this one regarding employee protections from forced or coerced vaccinations and the representatives from these hospitals speaking against the protections are really out there in lala land and, in my opinion, just completely making things up or are so misinformed that it's scary to think that they are health professionals in charge of making these vaccination policies at all.

We now know affirmatively that the manufacturers/researchers of the covid vaccine misrepresented or otherwise straight up lied about possible side effects, what trials they conducted, and the efficacy of what they were selling. I ask everyone to remember when we were told by both Dr. Wallensky, the director at the time of the CDC, and Dr. Anthony Fauci on February 28, 2021 that the vaccines were 100% effective in preventing hospitalization and death. 100% effective! Was that true? Well it was used as justification to mandate millions of people either get it or have everything they've ever worked for taken from them. I have the

article saved at home because these sorts of things have had a habit of disappearing from the internet over the last few years when it makes these people look ridiculous. And as we also know, Dr. Fauci is so completely innocent and correct in his actions that Joe Biden gave him a 10 year blanket presidential pardon for anything he did or may have done. Because that's what innocent and well meaning people receive from the president all the time. That may sound partisan or an irrelevant rant but as I again remind everyone these are the people who we all had to take orders from for 3 long years, without the right to question them.

I really respect healthcare workers and all they did and continue to do. But there are clearly authority figures within healthcare that have some kind of pathological need to control everything around them even when it makes no sense and has no justification. And I don't even need to get into any of the other wild stuff regarding the Covid-19 vaccines that has come out or still is being revealed besides the simple, objective fact that we were told they absolutely worked, but actually they don't. We all know this whole argument isn't about the hepatitis shot, or measles, it's about the wild covid so-called vaccines and preventing this situation from happening again.

Thank you for reading my testimony.

**Do Pass Testimony  
of Doug Sharbono, citizen of North Dakota  
on HB1391  
in the Sixty-ninth Legislative Assembly of North Dakota**

Dear Chairman Ruby and members of the House Human Services Committee,

I am writing as a citizen and believe HB1391 is much needed legislation that will simply protect those who wish not to participate in mandated shots, vaccinations, and other procedures. I ask for a Do Pass on HB1391.

North Dakota citizens have undergone an absolute disaster in terms of the handling of the COVID-19 pandemic. As I casually look around, I see far, far worse health after the mandated shots than before. Unusually high death rates, unusually high cancer rates, unusually high autoimmune disorder rates, unusually high RSV rates, and unusually high sudden onset blindness are just a few of the poor health conditions I see in the community around me following the COVID-19 injections. As a result, we need some safeguards. HB1391 gives us this that protection.

Please give HB1391 a Do Pass.

Thank you,

Doug Sharbono  
1708 9<sup>th</sup> St S  
Fargo, ND 58103

Chairperson and Members of the Committee,

My name is Angie Kunkel and I am expressing my support for HB 1391.

I believe fully that We the People should have full ability to make our own informed decisions about our and our child's healthcare. It should NOT be left up to our employers, government or schools to make those decisions, especially when it comes to vaccines.

It is our fundamental right to medical autonomy.

Thank you,

Angie Kunkel

Granville, ND 58741

**DO PASS** Testimony for HB 1391

Dear Chairman Rudy and members of the House Human Services Committee,

I have been a lifelong citizen of North Dakota and am writing my testimony for your consideration for a **DO PASS** of HB 1391 Relating to creating a new status related to human rights and antidiscrimination policies. Bodily autonomy is a fundamental human right and is a basic building block of freedom. We as humans should never be discriminated against based on what we choose to put into our bodies or not put into our bodies. To me this is a very simple do pass based on what I have written here.

Thank you for your time.

West Fargo resident

Jocelyn J. Backman



**TESTIMONY**

HB 1391

House Human Services

February 4, 2025

Jessica Doty, UND Director of Student Health Services

Chair Ruby and Committee Members:

My name is Jessica Doty, Director of Student Health Services at the University of North Dakota. I am writing to oppose HB 1391 and share concerns about how the broad concept of 'health status' as a protected status in this bill would challenge the protection of the campus' public health. There would be direct conflict in protecting public safety and managing health-related situations as we try to protect health status. Health status is a broad and inherently vague concept. Without clear limitations, 'health status' could encompass a wide range of conditions, including temporary illnesses, lifestyle-related health issues, and subjective health perceptions. The lack of specificity of the definition of 'health status' in this proposed bill creates legal uncertainty and administrative challenges for employers, businesses, and institutions.

Examples of how this bill would negatively affect a college campus can be illustrated with very real threats such as an active tuberculosis case or a positive hepatitis A infection within the campus community. At an institution of higher education, the protection of public health occasionally comes with requiring a person with a certain 'health status' to stay away from the classroom or workplace to protect others. Currently, a person with an infectious disease would be isolated from going to classes or working at their on-campus job, perhaps at the dining center or student union. With the changes proposed in HB1391, the campus would no longer be able to

require a person with a transmittable condition to stay home during an infectious period. The campus would be faced with the difficult decision of having a person continue working while actively infectious. In these situations, it is almost guaranteed that the communicable condition will spread to many others on campus, shutting down classrooms, dining halls and public gathering spaces altogether.

Additionally, with the passing of this amendment, a student in a health sciences major with a contagious disease that is completing clinical rotations for their program would not be required stay home and could continue caring for immunocompromised populations. The risk of spreading a communicable disease like measles through a vulnerable population could be devastating to an entire community in this scenario, as well as many other situations.

We respectfully request a Do Not Pass on HB1391.

69<sup>th</sup> Legislative Assembly  
Regular Session (2025)

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H.B. 1391

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OPPOSITION

House Human Services Committee

Rep. Matt Ruby, Chairman  
Rep. Kathy Frelich, Vice Chairman

Testimony of Zachary Greenberg

Interim Commissioner of Labor  
N.D. Department of Labor and Human Rights

February 4, 2025

**Chairman Ruby, & Members of the Committee,**

Thank you for the opportunity to provide testimony regarding HB 1391. My name is Zachary Greenberg, and I serve as the Interim Commissioner of the Department of Labor and Human Rights. While I fully support efforts to ensure fair treatment for all North Dakotans, I must express concerns regarding the administrative and procedural burdens this bill would impose on the department.

As drafted, this bill would add "health status" as a protected category under the state's anti-discrimination laws. This expansion would significantly increase the number of discrimination claims filed with our department, as it creates a new and complex basis for alleged workplace discrimination. Unlike existing protected categories such as race, sex, age, or disability—where legal frameworks are well-established—this new category introduces ambiguity that will require extensive regulatory interpretation, staff training, and adjudication.

One of the primary concerns is that this provision would create a legal entitlement to reasonable accommodations for individuals who do not meet the criteria under the North Dakota Human Rights Act (NDHRA), the federal Americans with Disabilities Act (ADA), or Title VII of the Civil Rights Act of 1964. For example, under current state or federal law, an individual who declines for personal reasons a vaccine which is required by their employer but does not have a disability or religious objection is not entitled to a reasonable accommodation. However, if "health status" were a protected class only under the NDHRA, an employee filing a state complaint could claim discrimination if an employer denies them an accommodation—such as remote work or modified duties—solely based on their personal decision to refuse a vaccine or other medical treatment. This could place an undue burden on employers, who would be required to assess and implement reasonable accommodations beyond the existing legal requirements.

A reasonable accommodation is a modification or adjustment to a job or work environment that enables an individual to perform essential job functions while addressing a legitimate need, typically related to a disability or religious belief. Under current law, accommodations might include modifications such as wheelchair-accessible workspaces, flexible scheduling for medical treatments, or exemptions from certain tasks due to sincerely held religious beliefs. These accommodations are carefully evaluated to balance the rights of employees with the operational needs of employers. Expanding the obligation to accommodate personal health decisions—rather than medical conditions or religious beliefs—could significantly alter workplace dynamics, as employers would face an influx of accommodation requests based on individual preferences rather than legally

recognized needs. This shift could lead to inconsistent enforcement, an administrative burden on businesses, and potential workplace disruptions.

Moreover, this expansion would not only increase the number of case filings, but also the complexity of investigations. Unlike traditional discrimination claims, cases involving "health status" would require the Department to evaluate medical histories, personal decisions, and employer policies on health and safety in ways that go beyond our Compliance Investigators' administrative capacity. The lack of federal precedent on this issue means that the Department would be navigating uncharted legal territory, increasing the likelihood of prolonged investigations, and costly litigation.

To handle these increased filings, the Department would require additional staffing and resources to ensure timely case processing. Without such resources, existing case backlogs would grow, and claimants—including those filing under long-established protections—could experience significant delays in obtaining resolutions.

For these reasons, I respectfully urge the committee to recommend a DO NOT PASS on HB 1391 due to the uncertain impact it would have on the Department's enforcement of North Dakota's anti-discrimination laws.

Thank you for your time, and I am happy to answer any questions.

Hello fellow North Dakotans, my name is Chris Anderson. Born and raised in rural North Dakota, I've been a Fargo resident for 22 years, husband to a dedicated wife, and father of five.

I'm bringing advocacy to House Bill #1391. The idea of keeping one's health status protected under anti-discrimination state laws seems unarguable. I believe that we're given this freedom as seen fit by our Constitution under the law. What makes our country and state great regarding this topic is the ability to live free from oppression and coercion. The moment we give into divulging our health freedoms, is the moment our individual uniqueness becomes vulnerable. We have all been given the ability to live our lives and take care of our own bodies as we see fit. Matters of Natural Law should be kept confidential if we so choose. Being pressured into divulging personal information is overreaching and unacceptable. No matter if a person is pro-vaccine or anti-vaccine, discrimination has no place. Some people may favor healthy food, others may prefer junk food, I believe everyone has a right to protected choices.

We have already seen much judicial support as stated by US Appeals Court for the 9th Circuit. On October 9th, 2024 Judge Daniel A. Bress ordered an injunction be removed that discriminated against unvaccinated workers, "because it's considered to be speculative to justify preemption".

I've been pressured in different instances into divulging my health status by strangers, medical personnel, acquaintances, friends, and even some family. That act of pressure often included a critical and manipulating intention. I see our health choices as private personal information.

Restoring individual freedom to our founding father's original intent will keep are personal rights secure for future generations.

For this reason, I ask for your agreement in accordance with the US appeals court for the support of privacy and anti-discrimination of an individual's health status.

Thank you for your time and opportunity to be heard.  
Chris Anderson

I am writing in support of HB 1391. I feel this bill will add protections regarding health status for the state of North Dakota.

Sincerely,

Roger E. Neshem

District 38 Republican Chairman

# Testimony HB 1391

February 4, 2025

## Legislative Assembly of North Dakota

Thank you for the opportunity to offer my testimony in Support of HB1391, creating an additional definition of a protected status to prevent discrimination against individuals based on their *health status*, and upholding basic Constitutional human rights. While our current laws and Constitution should fundamentally provide this protection already, the grievous discrimination and harms: mental, emotional, physical, and financial, of the overreach of covid policies prove that there is a dire need for this clarification in our statutes.

My name is Rita Ludemann, and I am a sociologist and Licensed Social Worker. I am also a parent of three children, and caregiver to elderly and frail parents. During the season of covid our family suffered greatly under this lack of protection of our human rights. It is very clear now, in hindsight, how unreliable the so-called experts in position of authority were during this time in prescribing unfounded and untested experimental practices upon the over-reaching presumption of public health protection.

I, and numerous members of our family, were advised of the risks to our health if we wore face masks. Despite the fact that our personal freedom to choose or not choose to wear a mask should never have been at question, we did go to the expense of processing this issue with our personal physician and obtaining mask exemptions. These exemptions were not honored in public spaces so that we could shop and go about our daily needed business. We were frequently harassed and denied service.

The extreme discrimination in the public schools was even more abhorrent and unexpected. My son, who had by his principal been declared someone whom “everyone in the school loves,” became an object of hate and derision, and even a scapegoat. Despite not having a communicable disease while attending school in that season, he was called “disease boy,” among many other names. It was explained to him that if he came to school without a mask, another child may carry covid home and kill grandpa or grandma. While other students sat in touching desks, he sat alone. He was excluded from group projects, handed a jump rope while group games occurred at gym class, and sat in the hall or corner during music class. The crowds parted when he walked the hall. The treatment he received was clearly school-sanctioned bullying, creating an environment of moral superiority for those compliant students, akin to civil rights segregation. This poisonous environment became the norm, quickly and dangerously adopted, as was demonstrated by the Blue-eyed/brown-eyed experiment of that era. Despite numerous attempts to reconcile the situation with every professional he was in contact with the school, numerous administrators, up to and including the superintendent, and multiple pleas to the school board, the discrimination intensified. A health professional on the school board with no personal knowledge of his situation declared that no one ever had a valid reason for a mask-exemption. A recorded session of the



school board revealed their concern, not for his well-being or education, but for further segregating him from other students. Discrimination and sanctified bullying of this type should never be allowable in our country or state, much less mandated due to an individual's medical needs or choices as related to their health. The repercussions have been far-reaching: a once-confident and warm child has experienced repeated fears of rejection, his grades and subsequent learning were affected and reflected in lower standardized test scores, and the avoidant behavior subsequent to the discrimination resulted in a high level of tardiness and absenteeism, all culminating in rejection from an area private school. Health challenges, or the personal free choice to direct choices regarding future welfare or treatment should never result in this sort of inequitable treatment.

In addition, there was a great deal of discriminatory practice within the health care system itself. In 2020 my mother required surgery for a fifth cancer. My sister and I, a cardiac care nurse, were integrally involved in her care and careful feeding, at every single appointment or procedure. Due to unsubstantiated covid related strategies, we were discriminated against and initially separated from her during recovery, so we could not watch over her care. Knowing her multiple medication sensitivities and having previously watched her suffer from medical error-related harm, numerous attempts were made to communicate with staff. Despite this, she was administered the wrong medication which resulted in a critical health crisis, numerous additional surgical procedures, and the accepting of an imminent potential loss of life. We remained in the hospital with her from that time 24 hours/day, assisting with her feeding and care, at great loss to our own and children's wellbeing. It was a direct result of the discriminatory policy, when we carried no communicable disease. She has since lost half her jaw and subsists on tube feeding. While in the hospital with her, we faced near-constant harassment from the hospital staff and administration, interfering with our right to support our mother in the self-direction of her health care and support her optimal wellbeing.

I do wish I could more fully communicate to you the details of the suffering done due to discriminatory practices carried out with no protections. This should never be so in our great country, which has fought for the fundamental human right to pursue our own path to life, liberty and the pursuit of happiness—happiness, which necessitates the freedom to choose well-being and health. The Nuremburg Code, born of the atrocious health experiments of the Nazi regime, protected humans from being subjected to medical experimentation and unwanted procedures or testing. The right to be protected from discrimination based on those choices is the only way to prevent societal factors from creating an undeniable level of coercion, even if it is not at the end of the barrel of a gun. Yet here, in North Dakota, such basic rights were violated. Please codify this clarification by passing HB 1391 to protect the citizens of your state from facing such discrimination again.

Respectfully,

Rita Ludemann

Note, as defined in the bill "Health status" means an individual's medical records or preferences relating to the right to refuse a medical procedure, treatment, injection, device, vaccine, or prophylactic.

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

HB 1391  
2/17/2025

Relating to creating a new status related to human rights and antidiscrimination policies.
--

3:12 p.m. Chairman M. Ruby opened the meeting.

Members Present: Chairman M. Ruby, Vice-Chairman Frelich, Representatives K. Anderson, Beltz, Bolinske, Davis, Dobervich, Fegley, Hendrix, Holle, Kiefert, Rohr and Representative Rios

### **Discussion Topics:**

- Possible Amendment

3:12 p.m. Representative Rohr States, she is still waiting for amendments.

3:13 p.m. Chairman M. Ruby closed the meeting.

*Jackson Toman, Committee Clerk by Risa Berube*

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

HB 1391  
2/18/2025

Relating to creating a new status related to human rights and antidiscrimination policies.
--

9:45 a.m. Chairman M. Ruby opened the meeting.

Members Present: Chairman M. Ruby, Vice-Chairman Frelich, Representatives K. Anderson, Beltz, Bolinske, Davis, Dobervich, Fegley, Hendrix, Holle, Kiefert, Rohr and Representative Rios

### **Discussion Topics:**

- Possible Amendment

9:45 a.m. Representative Rohr States, she is still waiting for amendments.

9:47 a.m. Chairman M. Ruby closed the meeting.

*Jackson Toman, Committee Clerk by Risa Berube*

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

HB 1391  
2/19/2025

Relating to creating a new status related to human rights and antidiscrimination policies.
--

10:03 a.m. Chairman M. Ruby opened the meeting.

Members Present: Chairman M. Ruby, Vice-Chairman Frelich, Representatives K. Anderson, Beltz, Bolinske, Davis, Dobervich, Fegley, Hendrix, Holle, Kiefert, Rohr

Members Absent: Representative Rios

### Discussion Topics:

- Committee Action
- Exemptions

10:04 a.m. Representative Rohr introduced proposed amendments testimony #44917.

10:05 a.m. Representative Rohr moved to adopt the LC#25.1065.01002 amendments.

10:06 a.m. Representative Holle seconded the motion.

10:06 a.m. Voice vote passed.

10:06 a.m. Representative Rohr moved a Do Pass as amended.

10:06 a.m. Representative K. Anderson seconded the motion.

Representatives	Vote
Representative Matthew Ruby	Y
Representative Kathy Frelich	Y
Representative Karen Anderson	Y
Representative Mike Beltz	Y
Representative Macy Bolinske	Y
Representative Jayme Davis	N
Representative Gretchen Dobervich	N
Representative Cleyton Fegley	Y
Representative Jared Hendrix	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	N
Representative Nico Rios	AB
Representative Karen Rohr	Y

10:07 a.m. Motion passed 9-3-1.

Vice-Chairman Frelich will carry the bill.

10:07 a.m. Chairman M. Ruby closed the meeting.

*Jackson Toman, Committee Clerk*

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO**

**HOUSE BILL NO. 1391**

Introduced by

Representatives Rohr, K. Anderson, Hendrix, M. Ruby, Toman, Holle, Frelich

Senators Boehm, Clemens, Schaible, Van Oosting, Weston

HD  
2/19/25  
page 1 of 9

1 A BILL for an Act to create and enact a new section to chapter 14-02.4 of the North Dakota  
2 Century Code, relating to health status exceptions for health care facilities; and to amend and  
3 reenact sections 14-02.4-01, 14-02.4-02, 14-02.4-03, 14-02.4-04, 14-02.4-05, 14-02.4-06,  
4 14-02.4-08, and 14-02.4-09, subsection 1 of section 14-02.4-14, subsection 1 of section  
5 14-02.4-15, and sections 14-02.4-16 and 14-02.4-17 of the North Dakota Century Code, relating  
6 to creating a new status related to human rights and antidiscrimination policies.

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

8 **SECTION 1. AMENDMENT.** Section 14-02.4-01 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **14-02.4-01. State policy against discrimination.**

11 It is the policy of this state to prohibit discrimination on the basis of race, color, religion, sex,  
12 national origin, age, the presence of any mental or physical disability, health status, status with  
13 regard to marriage or public assistance, or participation in lawful activity off the employer's  
14 premises during nonworking hours which is not in direct conflict with the essential  
15 business-related interests of the employer; to prevent and eliminate discrimination in  
16 employment relations, public accommodations, housing, state and local government services,  
17 and credit transactions; and to deter those who aid, abet, or induce discrimination or coerce  
18 others to discriminate.

19 **SECTION 2. AMENDMENT.** Section 14-02.4-02 of the North Dakota Century Code is  
20 amended and reenacted as follows:

1       **14-02.4-02. Definitions.**

2       In this chapter, unless the context or subject matter otherwise requires:

- 3       1. "Age" insofar as it refers to any prohibited unfair employment or other practice means  
4       at least forty years of age.
- 5       2. "Aggrieved person" includes any person who claims to have been injured by a  
6       discriminatory practice.
- 7       3. "Court" means the district court in the judicial district in which the alleged  
8       discriminatory practice occurred.
- 9       4. "Department" means the division of human rights within the department of labor and  
10      human rights.
- 11      5. "Disability" means a physical or mental impairment that substantially limits one or  
12      more major life activities, a record of this impairment, or being regarded as having this  
13      impairment.
- 14      6. "Discriminatory practice" means an act or attempted act which because of race, color,  
15      religion, sex, national origin, age, physical or mental disability, status with regard to  
16      marriage or public assistance, or participation in lawful activity off the employer's  
17      premises during nonworking hours which is not in direct conflict with the essential  
18      business-related interests of the employer results in the unequal treatment or  
19      separation or segregation of any persons, or denies, prevents, limits, or otherwise  
20      adversely affects, or if accomplished would deny, prevent, limit, or otherwise adversely  
21      affect, the benefit of enjoyment by any person of employment, labor union  
22      membership, public accommodations, public services, or credit transactions. The term  
23      "discriminate" includes segregate or separate and for purposes of discrimination  
24      based on sex, it includes sexual harassment. Sexual harassment includes unwelcome  
25      sexual advances, requests for sexual favors, sexually motivated physical conduct or  
26      other verbal or physical conduct or communication of a sexual nature when:
- 27      a. Submission to that conduct or communication is made a term or condition, either  
28      explicitly or implicitly, of obtaining employment, public accommodations or public  
29      services, or education;

- 1           b. Submission to or rejection of that conduct or communication by an individual is  
2           used as a factor in decisions affecting that individual's employment, public  
3           accommodations or public services, education, or housing; or  
4           c. That conduct or communication has the purpose or effect of substantially  
5           interfering with an individual's employment, public accommodations, public  
6           services, or educational environment; and in the case of employment, the  
7           employer is responsible for its acts and those of its supervisory employees if it  
8           knows or should know of the existence of the harassment and fails to take timely  
9           and appropriate action.
- 10        7. "Employee" means a person who performs services for an employer, who employs  
11        one or more individuals, for compensation, whether in the form of wages, salaries,  
12        commission, or otherwise. "Employee" does not include a person elected to public  
13        office in the state or political subdivision by the qualified voters thereof, or a person  
14        chosen by the officer to be on the officer's political staff, or an appointee on the  
15        policymaking level or an immediate adviser with respect to the exercise of the  
16        constitutional or legal powers of the office. Provided, "employee" does include a  
17        person subject to the civil service or merit system or civil service laws of the state  
18        government, governmental agency, or a political subdivision.
- 19        8. "Employer" means a person within the state who employs one or more employees for  
20        more than one quarter of the year and a person wherever situated who employs one  
21        or more employees whose services are to be partially or wholly performed in the state.
- 22        9. "Employment agency" means a person regularly undertaking, with or without  
23        compensation, to procure employees for an employer or to procure for employees  
24        opportunity to work for an employer and includes any agent of the person.
- 25        10. "Health status" means an individual's medical records or preferences relating to the  
26        right to refuse a medical procedure, treatment, injection, device, vaccine, or  
27        prophylactic.
- 28        11. "Labor organization" means a person, employee representation committee, plan in  
29        which employees participate, or other organization which exists solely or in part for the  
30        purpose of dealing with employers concerning grievances, labor disputes, wages,  
31        rates of pay, hours, or other terms or conditions of employment.



- 1 ~~11~~.12. "National origin" means the place of birth of an individual or any of the individual's  
2 lineal ancestors.
- 3 ~~12~~.13. "Otherwise qualified person" means a person who is capable of performing the  
4 essential functions of the particular employment in question.
- 5 ~~13~~.14. "Person" means an individual, partnership, association, corporation, limited liability  
6 company, unincorporated organization, mutual company, joint stock company, trust,  
7 agent, legal representative, trustee, trustee in bankruptcy, receiver, labor organization,  
8 public body, public corporation, and the state and a political subdivision and agency  
9 thereof.
- 10 ~~14~~.15. "Public accommodation" means every place, establishment, or facility of whatever  
11 kind, nature, or class that caters or offers services, facilities, or goods to the general  
12 public for a fee, charge, or gratuity. "Public accommodation" does not include a bona  
13 fide private club or other place, establishment, or facility which is by its nature distinctly  
14 private; provided, however, the distinctly private place, establishment, or facility is a  
15 "public accommodation" during the period it caters or offers services, facilities, or  
16 goods to the general public for a fee, charge, or gratuity.
- 17 ~~15~~.16. "Public service" means a public facility, department, agency, board, or commission  
18 owned, operated, or managed by or on behalf of this state, a political subdivision  
19 thereof, or a public corporation.
- 20 ~~16~~.17. "Readily achievable" means easily accomplishable and able to be carried out without  
21 much difficulty or expense by a person engaged in the provision of public  
22 accommodations.
- 23 ~~17~~.18. "Reasonable accommodations" means accommodations by an employer that do not:  
24 a. Unduly disrupt or interfere with the employer's normal operations;  
25 b. Threaten the health or safety of the individual with a disability or others;  
26 c. Contradict a business necessity of the employer; or  
27 d. Impose undue hardship on the employer, based on the size of the employer's  
28 business, the type of business, the financial resources of the employer, and the  
29 estimated cost and extent of the accommodation.
- 30 ~~18~~.19. "Sex" includes pregnancy, childbirth, and disabilities related to pregnancy or childbirth.



1 ~~19.20.~~ "Status with regard to public assistance" means the condition of being a recipient of  
2 federal, state, or local assistance, including medical assistance, or of being a tenant  
3 receiving federal, state, or local subsidies, including rental assistance or rent  
4 supplements.

5 **SECTION 3. AMENDMENT.** Section 14-02.4-03 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **14-02.4-03. Employer's discriminatory practices.**

- 8 1. It is a discriminatory practice for an employer to fail or refuse to hire an individual; to  
9 discharge an employee; or to accord adverse or unequal treatment to an individual or  
10 employee with respect to application, hiring, training, apprenticeship, tenure,  
11 promotion, upgrading, compensation, layoff, or a term, privilege, or condition of  
12 employment, because of race, color, religion, sex, national origin, age, physical or  
13 mental disability, health status, status with respect to marriage or public assistance, or  
14 participation in lawful activity off the employer's premises during nonworking hours  
15 which is not in direct conflict with the essential business-related interests of the  
16 employer.
- 17 2. It is a discriminatory practice for an employer to fail or refuse to make reasonable  
18 accommodations for an otherwise qualified individual with a physical or mental  
19 disability, because that individual is pregnant, ~~or~~ because of that individual's religion,  
20 or because of that individual's health status. An employer is not required to provide an  
21 accommodation that would disrupt or interfere with the employer's normal business  
22 operations; threaten an individual's health or safety; contradict a business necessity of  
23 the employer; or impose an undue hardship on the employer, taking into consideration  
24 the size of the employer's business, the type of business, the financial resources of  
25 the employer, and the estimated cost and extent of the accommodation. For purposes  
26 of this subsection, "pregnant" includes pregnancy, childbirth, and related medical  
27 conditions.
- 28 3. This chapter does not prohibit compulsory retirement of any employee who has  
29 attained sixty-five years of age, but not seventy years of age, and who, for the  
30 two-year period immediately before retirement, is employed in a bona fide executive or  
31 high policymaking position, if the employee is entitled to an immediate nonforfeiture

1           annual retirement benefit from a pension, profit-sharing, savings, or deferred  
2           compensation plan, or any combination of those plans, of the employer of the  
3           employee, which equal, in the aggregate, at least forty-four thousand dollars.

4           **SECTION 4. AMENDMENT.** Section 14-02.4-04 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6           **14-02.4-04. Employment agency's discriminatory practices.**

7           It is a discriminatory practice for an employment agency to accord adverse or unequal  
8 treatment to a person in connection with an application for employment, referral, or request for  
9 assistance in procurement of employees because of race, color, religion, sex, national origin,  
10 age, physical or mental disability, health status, or status with respect to marriage or public  
11 assistance, or to accept a listing of employment on that basis.

12          **SECTION 5. AMENDMENT.** Section 14-02.4-05 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14          **14-02.4-05. Labor organization's discriminatory practices.**

15          It is a discriminatory practice for a labor organization to deny full and equal membership  
16 rights to an applicant for membership or to a member; to expel, suspend, or otherwise discipline  
17 a member; or to accord adverse, unlawful, or unequal treatment to a person with respect to the  
18 person's hiring, apprenticeship, training, tenure, compensation, upgrading, layoff, or a term or  
19 condition of employment because of race, color, religion, sex, national origin, age, physical or  
20 mental disability, health status, or status with respect to marriage or public assistance.

21          **SECTION 6. AMENDMENT.** Section 14-02.4-06 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23          **14-02.4-06. Certain employment advertising deemed discriminatory.**

24          It is a discriminatory practice for an employer, employment agency, or labor organization, or  
25 the employees, agents, or members thereof directly or indirectly to advertise or in any other  
26 manner indicate or publicize that individuals of a particular race, color, religion, sex, national  
27 origin, age, physical or mental disability, health status, or status with respect to marriage or  
28 public assistance, or who participate in lawful activity off the employer's premises during  
29 nonworking hours which activity is not in direct conflict with the essential business-related  
30 interests of the employer, are unwelcome, objectionable, not acceptable, or not solicited.



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1       **SECTION 7. AMENDMENT.** Section 14-02.4-08 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **14-02.4-08. Qualification based on religion, sex, national origin, physical or mental**  
4 **disability, or marital status.**

5       Notwithstanding sections 14-02.4-03 through 14-02.4-06, it is not a discriminatory practice  
6 for an employer to fail or refuse to hire and employ an individual for a position, to discharge an  
7 individual from a position, or for an employment agency to fail or refuse to refer an individual for  
8 employment in a position, or for a labor organization to fail or refuse to refer an individual for  
9 employment, on the basis of religion, sex, national origin, physical or mental disability, health  
10 status, or marital status in those circumstances where religion, sex, national origin, physical or  
11 mental disability, health status, or marital status is a bona fide occupational qualification  
12 reasonably necessary to the normal operation of that particular business or enterprise; nor is it  
13 a discriminatory practice for an employer to fail or refuse to hire and employ an individual for a  
14 position, or to discharge an individual from a position on the basis of that individual's  
15 participation in a lawful activity that is off the employer's premises and that takes place during  
16 nonworking hours and which is not in direct conflict with the essential business-related interests  
17 of the employer, if that participation is contrary to a bona fide occupational qualification that  
18 reasonably and rationally relates to employment activities and the responsibilities of a particular  
19 employee or group of employees, rather than to all employees of that employer.

20       **SECTION 8. AMENDMENT.** Section 14-02.4-09 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22       **14-02.4-09. Seniority, merit, or other measuring systems and ability tests not**  
23 **discriminatory.**

24       Notwithstanding sections 14-02.4-03 through 14-02.4-06, it is not a discriminatory practice  
25 for an employer to apply different standards of compensation, or different terms, conditions, or  
26 privileges of employment pursuant to a bona fide seniority or merit system, or a system which  
27 measures earnings by quantity or quality of production or to employees who work in different  
28 locations provided that the differences are not the result of an intention to discriminate because  
29 of race, color, religion, sex, national origin, age, physical or mental disability, health status,  
30 status with respect to marriage or public assistance, or participation in lawful activity off the  
31 employer's premises during nonworking hours; or for an employer to give and to act upon the

1 results of any professionally developed ability test; provided, that the test, its administration, or  
2 action upon the results is not designed, intended, or used to discriminate because of race, color,  
3 religion, sex, national origin, age, physical or mental disability, health status, status with respect  
4 to marriage or public assistance, or participation in a lawful activity off the employer's premises  
5 during nonworking hours.

6 **SECTION 9. AMENDMENT.** Subsection 1 of section 14-02.4-14 of the North Dakota  
7 Century Code is amended and reenacted as follows:

8 1. It is a discriminatory practice for a person engaged in the provision of public  
9 accommodations to fail to provide to a person access to the use of any benefit from  
10 the services and facilities of the public accommodations; or to give adverse, unlawful,  
11 or unequal treatment to a person with respect to the availability to the services and  
12 facilities, the price or other consideration therefor, the scope and equality thereof, or  
13 the terms and conditions under which the same are made available because of the  
14 person's race, color, religion, sex, national origin, age, physical or mental disability,  
15 health status, or status with respect to marriage or public assistance.

16 **SECTION 10. AMENDMENT.** Subsection 1 of section 14-02.4-15 of the North Dakota  
17 Century Code is amended and reenacted as follows:

18 1. It is a discriminatory practice for a person engaged in the provision of public services  
19 to fail to provide to an individual access to the use of and benefit thereof, or to give  
20 adverse or unequal treatment to an individual in connection therewith because of the  
21 individual's race, color, religion, sex, national origin, age, physical or mental disability,  
22 health status, or status with respect to marriage or public assistance.

23 **SECTION 11. AMENDMENT.** Section 14-02.4-16 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25 **14-02.4-16. Advertising public accommodations or services - Discriminatory**  
26 **practices - Exceptions.**

27 It is a discriminatory practice for a person to advertise or in any other manner indicate or  
28 publicize that the patronage of persons of a particular race, color, religion, sex, national origin,  
29 age, physical or mental disability, health status, or status with respect to marriage or public  
30 assistance is unwelcome, objectionable, not acceptable, or not solicited. This section does not



1 prohibit a notice or advertisement banning minors from places where alcoholic beverages are  
2 being served.

3 **SECTION 12. AMENDMENT.** Section 14-02.4-17 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **14-02.4-17. Credit transactions - Discriminatory practices.**

6 It is a discriminatory practice, except as permitted or required by the Equal Credit  
7 Opportunity Act [15 U.S.C. 1691], for a person, whether acting as an individual or for another, to  
8 deny credit, increase the charges or fees for or collateral required to secure credit, restrict the  
9 amount or use of credit extended, impose different terms or conditions with respect to the credit  
10 extended to a person, or item or service related thereto because of race, color, religion, sex,  
11 national origin, age, physical or mental disability, health status, or status with respect to  
12 marriage or public assistance. This section does not prohibit a party to a credit transaction from  
13 considering the credit history of a person or from taking reasonable action thereon.

14 **SECTION 13.** A new section to chapter 14-02.4 of the North Dakota Century Code is  
15 created and enacted as follows:

16 **Health status inquiry not discriminatory.**

17 1. A health care facility, licensed under chapter 23-16, does not unlawfully discriminate  
18 under this chapter if the health care facility:

- 19 a. Asks an employee to volunteer specific health status information for the purpose  
20 of determining whether the health care facility should implement reasonable  
21 accommodation measures to protect the safety and health of employees,  
22 patients, visitors, and other individuals from communicable diseases; and  
23 b. Implements reasonable accommodation measures for employees, patients,  
24 visitors, and other individuals to protect the health and safety of individuals from  
25 communicable diseases.

26 2. A health care facility may consider an employee who declines to provide health status  
27 information to be at risk for a communicable disease for purposes of determining  
28 whether reasonable accommodation measures must be implemented.

**REPORT OF STANDING COMMITTEE  
HB 1391**

**Human Services Committee (Rep. M. Ruby, Chairman)** recommends **AMENDMENTS** ([25.1065.01002](#)) and when so amended, recommends **DO PASS** (9 YEAS, 3 NAYS, 1 ABSENT OR EXCUSED AND NOT VOTING). HB 1391 was placed on the Sixth order on the calendar.

25.1065.01002  
Title.02000

Prepared by the Legislative Council  
staff for Representative Rohr  
February 18, 2025

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### HOUSE BILL NO. 1391

Introduced by

Representatives Rohr, K. Anderson, Hendrix, M. Ruby, Toman, Holle, Frelich

Senators Boehm, Clemens, Schaible, Van Oosting, Weston

1 A BILL for an Act to create and enact a new section to chapter 14-02.4 of the North Dakota  
2 Century Code, relating to health status exceptions for health care facilities; and to amend and  
3 reenact sections 14-02.4-01, 14-02.4-02, 14-02.4-03, 14-02.4-04, 14-02.4-05, 14-02.4-06,  
4 14-02.4-08, and 14-02.4-09, subsection 1 of section 14-02.4-14, subsection 1 of section  
5 14-02.4-15, and sections 14-02.4-16 and 14-02.4-17 of the North Dakota Century Code, relating  
6 to creating a new status related to human rights and antidiscrimination policies.

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

8 **SECTION 1. AMENDMENT.** Section 14-02.4-01 of the North Dakota Century Code is  
9 amended and reenacted as follows:

#### 10 **14-02.4-01. State policy against discrimination.**

11 It is the policy of this state to prohibit discrimination on the basis of race, color, religion, sex,  
12 national origin, age, the presence of any mental or physical disability, health status, status with  
13 regard to marriage or public assistance, or participation in lawful activity off the employer's  
14 premises during nonworking hours which is not in direct conflict with the essential  
15 business-related interests of the employer; to prevent and eliminate discrimination in  
16 employment relations, public accommodations, housing, state and local government services,  
17 and credit transactions; and to deter those who aid, abet, or induce discrimination or coerce  
18 others to discriminate.

19 **SECTION 2. AMENDMENT.** Section 14-02.4-02 of the North Dakota Century Code is  
20 amended and reenacted as follows:



**14-02.4-02. Definitions.**

In this chapter, unless the context or subject matter otherwise requires:

1. "Age" insofar as it refers to any prohibited unfair employment or other practice means at least forty years of age.
2. "Aggrieved person" includes any person who claims to have been injured by a discriminatory practice.
3. "Court" means the district court in the judicial district in which the alleged discriminatory practice occurred.
4. "Department" means the division of human rights within the department of labor and human rights.
5. "Disability" means a physical or mental impairment that substantially limits one or more major life activities, a record of this impairment, or being regarded as having this impairment.
6. "Discriminatory practice" means an act or attempted act which because of race, color, religion, sex, national origin, age, physical or mental disability, status with regard to marriage or public assistance, or participation in lawful activity off the employer's premises during nonworking hours which is not in direct conflict with the essential business-related interests of the employer results in the unequal treatment or separation or segregation of any persons, or denies, prevents, limits, or otherwise adversely affects, or if accomplished would deny, prevent, limit, or otherwise adversely affect, the benefit of enjoyment by any person of employment, labor union membership, public accommodations, public services, or credit transactions. The term "discriminate" includes segregate or separate and for purposes of discrimination based on sex, it includes sexual harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:
  - a. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations or public services, or education;



- 1           b. Submission to or rejection of that conduct or communication by an individual is  
2           used as a factor in decisions affecting that individual's employment, public  
3           accommodations or public services, education, or housing; or
- 4           c. That conduct or communication has the purpose or effect of substantially  
5           interfering with an individual's employment, public accommodations, public  
6           services, or educational environment; and in the case of employment, the  
7           employer is responsible for its acts and those of its supervisory employees if it  
8           knows or should know of the existence of the harassment and fails to take timely  
9           and appropriate action.
- 10          7. "Employee" means a person who performs services for an employer, who employs  
11          one or more individuals, for compensation, whether in the form of wages, salaries,  
12          commission, or otherwise. "Employee" does not include a person elected to public  
13          office in the state or political subdivision by the qualified voters thereof, or a person  
14          chosen by the officer to be on the officer's political staff, or an appointee on the  
15          policymaking level or an immediate adviser with respect to the exercise of the  
16          constitutional or legal powers of the office. Provided, "employee" does include a  
17          person subject to the civil service or merit system or civil service laws of the state  
18          government, governmental agency, or a political subdivision.
- 19          8. "Employer" means a person within the state who employs one or more employees for  
20          more than one quarter of the year and a person wherever situated who employs one  
21          or more employees whose services are to be partially or wholly performed in the state.
- 22          9. "Employment agency" means a person regularly undertaking, with or without  
23          compensation, to procure employees for an employer or to procure for employees  
24          opportunity to work for an employer and includes any agent of the person.
- 25          10. "Health status" means an individual's medical records or preferences relating to the  
26          right to refuse a medical procedure, treatment, injection, device, vaccine, or  
27          prophylactic.
- 28          11. "Labor organization" means a person, employee representation committee, plan in  
29          which employees participate, or other organization which exists solely or in part for the  
30          purpose of dealing with employers concerning grievances, labor disputes, wages,  
31          rates of pay, hours, or other terms or conditions of employment.

- 1 ~~11~~.12. "National origin" means the place of birth of an individual or any of the individual's  
2 lineal ancestors.
- 3 ~~12~~.13. "Otherwise qualified person" means a person who is capable of performing the  
4 essential functions of the particular employment in question.
- 5 ~~13~~.14. "Person" means an individual, partnership, association, corporation, limited liability  
6 company, unincorporated organization, mutual company, joint stock company, trust,  
7 agent, legal representative, trustee, trustee in bankruptcy, receiver, labor organization,  
8 public body, public corporation, and the state and a political subdivision and agency  
9 thereof.
- 10 ~~14~~.15. "Public accommodation" means every place, establishment, or facility of whatever  
11 kind, nature, or class that caters or offers services, facilities, or goods to the general  
12 public for a fee, charge, or gratuity. "Public accommodation" does not include a bona  
13 fide private club or other place, establishment, or facility which is by its nature distinctly  
14 private; provided, however, the distinctly private place, establishment, or facility is a  
15 "public accommodation" during the period it caters or offers services, facilities, or  
16 goods to the general public for a fee, charge, or gratuity.
- 17 ~~15~~.16. "Public service" means a public facility, department, agency, board, or commission  
18 owned, operated, or managed by or on behalf of this state, a political subdivision  
19 thereof, or a public corporation.
- 20 ~~16~~.17. "Readily achievable" means easily accomplishable and able to be carried out without  
21 much difficulty or expense by a person engaged in the provision of public  
22 accommodations.
- 23 ~~17~~.18. "Reasonable accommodations" means accommodations by an employer that do not:  
24 a. Unduly disrupt or interfere with the employer's normal operations;  
25 b. Threaten the health or safety of the individual with a disability or others;  
26 c. Contradict a business necessity of the employer; or  
27 d. Impose undue hardship on the employer, based on the size of the employer's  
28 business, the type of business, the financial resources of the employer, and the  
29 estimated cost and extent of the accommodation.
- 30 ~~18~~.19. "Sex" includes pregnancy, childbirth, and disabilities related to pregnancy or childbirth.

1 ~~19.20.~~ "Status with regard to public assistance" means the condition of being a recipient of  
2 federal, state, or local assistance, including medical assistance, or of being a tenant  
3 receiving federal, state, or local subsidies, including rental assistance or rent  
4 supplements.

5 **SECTION 3. AMENDMENT.** Section 14-02.4-03 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **14-02.4-03. Employer's discriminatory practices.**

- 8 1. It is a discriminatory practice for an employer to fail or refuse to hire an individual; to  
9 discharge an employee; or to accord adverse or unequal treatment to an individual or  
10 employee with respect to application, hiring, training, apprenticeship, tenure,  
11 promotion, upgrading, compensation, layoff, or a term, privilege, or condition of  
12 employment, because of race, color, religion, sex, national origin, age, physical or  
13 mental disability, health status, status with respect to marriage or public assistance, or  
14 participation in lawful activity off the employer's premises during nonworking hours  
15 which is not in direct conflict with the essential business-related interests of the  
16 employer.
- 17 2. It is a discriminatory practice for an employer to fail or refuse to make reasonable  
18 accommodations for an otherwise qualified individual with a physical or mental  
19 disability, because that individual is pregnant, ~~or~~ because of that individual's religion,  
20 or because of that individual's health status. An employer is not required to provide an  
21 accommodation that would disrupt or interfere with the employer's normal business  
22 operations; threaten an individual's health or safety; contradict a business necessity of  
23 the employer; or impose an undue hardship on the employer, taking into consideration  
24 the size of the employer's business, the type of business, the financial resources of  
25 the employer, and the estimated cost and extent of the accommodation. For purposes  
26 of this subsection, "pregnant" includes pregnancy, childbirth, and related medical  
27 conditions.
- 28 3. This chapter does not prohibit compulsory retirement of any employee who has  
29 attained sixty-five years of age, but not seventy years of age, and who, for the  
30 two-year period immediately before retirement, is employed in a bona fide executive or  
31 high policymaking position, if the employee is entitled to an immediate nonforfeiture



1           annual retirement benefit from a pension, profit-sharing, savings, or deferred  
2           compensation plan, or any combination of those plans, of the employer of the  
3           employee, which equal, in the aggregate, at least forty-four thousand dollars.

4           **SECTION 4. AMENDMENT.** Section 14-02.4-04 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6           **14-02.4-04. Employment agency's discriminatory practices.**

7           It is a discriminatory practice for an employment agency to accord adverse or unequal  
8 treatment to a person in connection with an application for employment, referral, or request for  
9 assistance in procurement of employees because of race, color, religion, sex, national origin,  
10 age, physical or mental disability, health status, or status with respect to marriage or public  
11 assistance, or to accept a listing of employment on that basis.

12           **SECTION 5. AMENDMENT.** Section 14-02.4-05 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14           **14-02.4-05. Labor organization's discriminatory practices.**

15           It is a discriminatory practice for a labor organization to deny full and equal membership  
16 rights to an applicant for membership or to a member; to expel, suspend, or otherwise discipline  
17 a member; or to accord adverse, unlawful, or unequal treatment to a person with respect to the  
18 person's hiring, apprenticeship, training, tenure, compensation, upgrading, layoff, or a term or  
19 condition of employment because of race, color, religion, sex, national origin, age, physical or  
20 mental disability, health status, or status with respect to marriage or public assistance.

21           **SECTION 6. AMENDMENT.** Section 14-02.4-06 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23           **14-02.4-06. Certain employment advertising deemed discriminatory.**

24           It is a discriminatory practice for an employer, employment agency, or labor organization, or  
25 the employees, agents, or members thereof directly or indirectly to advertise or in any other  
26 manner indicate or publicize that individuals of a particular race, color, religion, sex, national  
27 origin, age, physical or mental disability, health status, or status with respect to marriage or  
28 public assistance, or who participate in lawful activity off the employer's premises during  
29 nonworking hours which activity is not in direct conflict with the essential business-related  
30 interests of the employer, are unwelcome, objectionable, not acceptable, or not solicited.

1       **SECTION 7. AMENDMENT.** Section 14-02.4-08 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **14-02.4-08. Qualification based on religion, sex, national origin, physical or mental**  
4 **disability, or marital status.**

5       Notwithstanding sections 14-02.4-03 through 14-02.4-06, it is not a discriminatory practice  
6 for an employer to fail or refuse to hire and employ an individual for a position, to discharge an  
7 individual from a position, or for an employment agency to fail or refuse to refer an individual for  
8 employment in a position, or for a labor organization to fail or refuse to refer an individual for  
9 employment, on the basis of religion, sex, national origin, physical or mental disability, health  
10 status, or marital status in those circumstances where religion, sex, national origin, physical or  
11 mental disability, health status, or marital status is a bona fide occupational qualification  
12 reasonably necessary to the normal operation of that particular business or enterprise; nor is it  
13 a discriminatory practice for an employer to fail or refuse to hire and employ an individual for a  
14 position, or to discharge an individual from a position on the basis of that individual's  
15 participation in a lawful activity that is off the employer's premises and that takes place during  
16 nonworking hours and which is not in direct conflict with the essential business-related interests  
17 of the employer, if that participation is contrary to a bona fide occupational qualification that  
18 reasonably and rationally relates to employment activities and the responsibilities of a particular  
19 employee or group of employees, rather than to all employees of that employer.

20       **SECTION 8. AMENDMENT.** Section 14-02.4-09 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22       **14-02.4-09. Seniority, merit, or other measuring systems and ability tests not**  
23 **discriminatory.**

24       Notwithstanding sections 14-02.4-03 through 14-02.4-06, it is not a discriminatory practice  
25 for an employer to apply different standards of compensation, or different terms, conditions, or  
26 privileges of employment pursuant to a bona fide seniority or merit system, or a system which  
27 measures earnings by quantity or quality of production or to employees who work in different  
28 locations provided that the differences are not the result of an intention to discriminate because  
29 of race, color, religion, sex, national origin, age, physical or mental disability, health status,  
30 status with respect to marriage or public assistance, or participation in lawful activity off the  
31 employer's premises during nonworking hours; or for an employer to give and to act upon the

1 results of any professionally developed ability test; provided, that the test, its administration, or  
2 action upon the results is not designed, intended, or used to discriminate because of race, color,  
3 religion, sex, national origin, age, physical or mental disability, health status, status with respect  
4 to marriage or public assistance, or participation in a lawful activity off the employer's premises  
5 during nonworking hours.

6 **SECTION 9. AMENDMENT.** Subsection 1 of section 14-02.4-14 of the North Dakota  
7 Century Code is amended and reenacted as follows:

- 8 1. It is a discriminatory practice for a person engaged in the provision of public  
9 accommodations to fail to provide to a person access to the use of any benefit from  
10 the services and facilities of the public accommodations; or to give adverse, unlawful,  
11 or unequal treatment to a person with respect to the availability to the services and  
12 facilities, the price or other consideration therefor, the scope and equality thereof, or  
13 the terms and conditions under which the same are made available because of the  
14 person's race, color, religion, sex, national origin, age, physical or mental disability,  
15 health status, or status with respect to marriage or public assistance.

16 **SECTION 10. AMENDMENT.** Subsection 1 of section 14-02.4-15 of the North Dakota  
17 Century Code is amended and reenacted as follows:

- 18 1. It is a discriminatory practice for a person engaged in the provision of public services  
19 to fail to provide to an individual access to the use of and benefit thereof, or to give  
20 adverse or unequal treatment to an individual in connection therewith because of the  
21 individual's race, color, religion, sex, national origin, age, physical or mental disability,  
22 health status, or status with respect to marriage or public assistance.

23 **SECTION 11. AMENDMENT.** Section 14-02.4-16 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25 **14-02.4-16. Advertising public accommodations or services - Discriminatory**  
26 **practices - Exceptions.**

27 It is a discriminatory practice for a person to advertise or in any other manner indicate or  
28 publicize that the patronage of persons of a particular race, color, religion, sex, national origin,  
29 age, physical or mental disability, health status, or status with respect to marriage or public  
30 assistance is unwelcome, objectionable, not acceptable, or not solicited. This section does not



1 prohibit a notice or advertisement banning minors from places where alcoholic beverages are  
2 being served.

3 **SECTION 12. AMENDMENT.** Section 14-02.4-17 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **14-02.4-17. Credit transactions - Discriminatory practices.**

6 It is a discriminatory practice, except as permitted or required by the Equal Credit  
7 Opportunity Act [15 U.S.C. 1691], for a person, whether acting as an individual or for another, to  
8 deny credit, increase the charges or fees for or collateral required to secure credit, restrict the  
9 amount or use of credit extended, impose different terms or conditions with respect to the credit  
10 extended to a person, or item or service related thereto because of race, color, religion, sex,  
11 national origin, age, physical or mental disability, health status, or status with respect to  
12 marriage or public assistance. This section does not prohibit a party to a credit transaction from  
13 considering the credit history of a person or from taking reasonable action thereon.

14 **SECTION 13.** A new section to chapter 14-02.4 of the North Dakota Century Code is  
15 created and enacted as follows:

16 **Health status inquiry not discriminatory.**

17 1. A health care facility, licensed under chapter 23-16, does not unlawfully discriminate  
18 under this chapter if the health care facility:

19 a. Asks an employee to volunteer specific health status information for the purpose  
20 of determining whether the health care facility should implement reasonable  
21 accommodation measures to protect the safety and health of employees,  
22 patients, visitors, and other individuals from communicable diseases; and

23 b. Implements reasonable accommodation measures for employees, patients,  
24 visitors, and other individuals to protect the health and safety of individuals from  
25 communicable diseases.

26 2. A health care facility may consider an employee who declines to provide health status  
27 information to be at risk for a communicable disease for purposes of determining  
28 whether reasonable accommodation measures must be implemented.

**2025 SENATE INDUSTRY AND BUSINESS**

**HB 1391**



# 2025 SENATE STANDING COMMITTEE MINUTES

## Industry and Business Committee Fort Union Room, State Capitol

HB 1391  
3/18/2025

A bill relating to creating a new status related to human rights and antidiscrimination policies.

10:03 a.m. Chairman Barta opened the hearing.

Members present: Chairman Barta, Vice-Chair Boehm, Senator Klein, Senator Kessel, Senator Enget

### Discussion Topics:

- Health status definition
- COVID 19 Pandemic
- Personal medical autonomy
- Vaccination mandates, medical interventions, and other procedures
- Places of employment, education, and public space exclusion
- Vaccine passports and Canada
- Personal rights and public safety balance
- Informed consent and negative implications
- Individual risk assessment and personal constitutional liberties
- Coercive policies and economic and corporate power
- Administrative and procedural burdens
- Legal uncertainty and workplace safety concerns
- Federal mandates and funding denial
- Healthcare affects
- Measles and community immunity standards
- Declining vaccination rates among younger generations
- Liability

10:03 a.m. Representative Karen M. Roers, District 31, testified in favor and introduced the bill.

10:14 a.m. Senator Kathy Frelich, District 50, testified in favor.

10:24 a.m. Jennifer Benson, Executive Director of American Experiment ND, testified in favor.

10:47 a.m. Zachary N. Greenberg, Interim Commissioner, ND Department of Labor and Human Rights, testified in opposition and submitted testimony #42539.

10:53 a.m. Arik Spencer, President and CEO, Greater ND Chamber, testified in favor and submitted testimony #42775.

11:03 a.m. Rick Clayburg, President and CEO, ND Banker's Association, testified in opposition.

11:06 a.m. Marnie Walth, Head of Legislative Affairs at Sanford Health in ND, introduced the following speaker.

11:06 a.m. Chris Meeker, Chief Medical Officer, Sanford Health, testified in opposition and submitted testimony #42739 in opposition.

11:22 a.m. Molly Howell, Assistant Director of Disease Control and Forensic Pathology, Department of Health and Human Services, testified in opposition and submitted testimony #42770.

11:26 a.m. Barbara Frydenlund, Public Health Administrator, Rolette County Public Health, testified in opposition and submitted testimony #42069.

11:32 a.m. Melissa Hauer, General Counsel/VP, ND Hospital Association, testified in opposition and submitted testimony #42591.

11:36 a.m. Molly Howell, Assistant Director of Disease Control and Forensic Pathology, Department of Health and Human Services, answered the committee's questions.

11:39 a.m. Courtney Koebele, Executive Director, ND Medical Association, testified in opposition and submitted testimony #42580.

11:40 a.m. Judy Estenson, retired registered nurse, testified in favor.

11:40 a.m. Bill Kalanek, ND EMS Association, testified in opposition

11:41 a.m. Carter Gill, VP of Government Affairs, ND Student Association, testified in opposition and submitted testimony #42702.

11:43 a.m. Judy Estenson, retired registered nurse, previous Senator from district 15, testified in favor.

**Additional written testimony:**

Terri Hedman, resident of Fargo, ND, submitted testimony #41762 in opposition.

Brenda Stallman, Executive Officer, Traill District Health Unit, submitted testimony #41766 in opposition.

Sean Thorstad, resident of West Fargo, ND, submitted testimony #41949 in opposition.

Janet Anderson, resident of Burlington, ND, submitted testimony #41964 in opposition.

Debra J. Huber, resident of Bismarck, ND, submitted testimony #41988 in opposition.

Kristin Nelson, former childcare provider, submitted testimony #42085 in opposition.

Brittney Blake, Corporate Counsel, Altru Health System, submitted testimony #42666 in opposition.

Ann Fritz, resident of Bismarck, ND, submitted testimony #42687 in opposition.

Faye Seidler, resident of Moorhead, MN, submitted testimony #42727 in opposition.

Sandra M. Tibke, Executive Director, Foundation for a Healthy ND, submitted testimony #42777 in opposition.

Doug Sharbono, resident of Fargo, ND, submitted testimony #42709 in favor.

Dr. Jake Schmitz, President, Association of Wellness Chiropractors, submitted testimony #42275 in favor.

11:50 a.m. Chairman Barta adjourned the meeting.

*Audrey Oswald, Committee Clerk*

Terri Hedman, 5524 16 Street South, Fargo, ND 58104

Oppose HB 1391

Dear Committee and Chairperson:

Thank you for thoughtfully considering the disadvantages of the passage of this bill. I am a registered nurse, serving all 42 years of my career in this state while always keeping the patient at the center of my practice. This bill endangers people young and old. It threatens the development of a fetus and the health of a pregnant mother exposed to measles, it causes potential infection and death to an immunocompromised cancer patient, and can lead to unnecessary loss of life to those in skilled nursing facilities. It is DANGEROUS. Creating further barriers to evidence-based public health practices is not in the best interest of anyone.

As elected leaders, please protect the citizens of this state by encouraging safe vaccines and reporting. We do not know when the next pandemic will come, but as long as I am here, I will do everything I can to protect you and your loved ones.

Please **oppose** HB 1391

Terri Hedman, MSSL, BSN, RN, OCN

5524 16 Street South

Fargo, ND 58104

**SENATE INDUSTRY & BUSINESS****HB 1391 OPPOSITION****Brenda Stallman, RN****Traill District Health Unit**

Greetings, Chair Barta and members of the Senate Industry and Business Committee.

My name is Brenda Stallman, and I have served as the Executive Director of Traill District Health Unit for 34 years. Our public health office is located in Hillsboro.

I am opposed to HB 1391 and the idea of including "Health Status" to the list of classes protected in the ND Human Rights Act. Discrimination is a word to describe unfair practices that single out or cause harm to an individual or group based on characteristics of a protected group. Adding "Health Status" to this group of classes differs and is dangerous due to the likelihood of disease transmission in the workplace to other employees, patrons, and vendors. It opens the door to imposing harm on unsuspecting people who are in contact with an unvaccinated and/or infectious disease carrying individual. This "protection" brings harm to innocent associates.

By eliminating the ability of an employer to have record of an employee's vaccination status, particularly in relation to vaccines that are associated with the nature of work required in a place of employment, the employer lacks the ability to maintain a safe and healthy workforce. Harm will occur to those who cannot be vaccinated or who have underlying health conditions and will be unknowingly exposed to vaccine preventable diseases.

Our state and employers have always had the luxury and ability to guarantee a healthy work environment to our employees through workforce safety laws, practices, and the

assurance they are safe from exposure to vaccine-preventable diseases. Adding health status to human rights and antidiscrimination policies creates an environment of mistrust and doubt.

A preventable outbreak of an infectious disease will result in lawsuits from employees, customers, or other parties. Employers may be held liable if an outbreak occurs in the workplace due to failure to implement proper health and safety measures, including the assurance that employees are vaccinated when required.

Let us consider the measles outbreak currently occurring in the state of Texas. As of last Friday, the number of measles cases associated with an outbreak in western Texas has grown to 259 known cases, with 36 cases reported over the last week, according to new data released Friday. Two children have died. Measles is one of the most contagious diseases known to humans. Just one infected patient can spread measles to up to nine out of 10 susceptible close contacts, according to the CDC. Almost all of the cases are in unvaccinated individuals or in individuals whose vaccination status is unknown. Airports are burdened with the spread of measles that will easily spread to travelers in the U.S., including to ND, and around the world. This can be prevented! Measles was declared eliminated from the U.S. in 2000 due to the highly effective vaccination program. Unfortunately, vaccination rates have been lagging in recent years, and the measles outbreak proves what will become the norm in absence of monitored vaccination statuses and upheld best practices.

This one scenario demonstrates the dangers of removing the vaccination status from the available information we have that is necessary to protect our population, employees, and patrons. We cannot put our employees, citizens, and children at risk due to weakened laws that eliminate our ability to determine who is vaccinated. Understanding the health status of an employee is necessary for employers to protect workers and to keep our businesses open.

While the intent behind not asking for vaccination status is generally to respect privacy and avoid discrimination, there are notable risks for employers. These risks include health and safety concerns, legal liabilities, difficulties in accommodation, impacts on workplace morale, and operational challenges.

Thank you for your consideration in opposing this life-threatening legislation. HB 1391 is extremely dangerous and will most certainly have regrettable consequences.

HB 1391

In Opposition

I've been working at Sanford for the last 11 years, I've seen the measles virus come back twice in that time as well as working during Covid at its peak. I appreciate the ideal of not wanting to feel forced or compelled to get a vaccine, but my views have changed over time and though there is still some concern with vaccine mandates but history has proven that they help mitigate health concerns and in some cases eliminate. However, we can't expect these viruses, diseases, and ailments to ever be understood if we don't look at the science more objectively and talk about vaccines constructively.

Thank you



March 16, 2025

Chairman Barta and members of the Industry & Business Committee:

I am writing on behalf of myself as an individual citizen of North Dakota and as a parent and am asking that you oppose HB1391.

We have all seen what has been happening in Texas with the measles outbreak and we simply cannot ignore the science that says vaccines help keep people healthy. As a state we should not support anything that may result in harming the health of our citizens.

Please vote Do Not Pass on 1391.

Respectfully submitted,

Janet Anderson

Burlington, ND

March 17, 2025

Senator Barta and Members of the Committee:

In North Dakota, we understand the value of herd immunity. Livestock owners will move heaven and earth to protect the herd, including the use of vaccinations.

For decades, herd immunity has protected people, too. Polio, smallpox and similar debilitating diseases had all but disappeared thanks to a significant majority of people having been vaccinated. Now, however, we are seeing the deadly reoccurrence of measles, beginning in Texas in areas with low vaccination rates. Do we really want what is happening in Texas to find its way to North Dakota thanks to HB 1391 and similar legislation?

HB 1391 is puzzling and contradictory. The addition of the amendment in Section 13 suggests that the bill's sponsors are fully cognizant of the dangers posed by communicable diseases in healthcare facilities. However, the amendment's sole focus on healthcare facilities begs the question: are communicable diseases less dangerous outside of hospitals and nursing homes? Are they not equally lethal in our daycare centers, schools, colleges and universities, businesses and churches? It is worth noting that in Texas, measles is the most rampant among school children, ages 5-17.

Finally, we must bear in mind one of the most important facets of achieving herd immunity: it protects the most vulnerable among us, those who for health reasons cannot receive a vaccination. This includes infants aged 0 to 12 months, and immuno-compromised individuals.

I implore the Committee to vote NO on this bill. We need to protect North Dakota's herd immunity, not weaken it. Let us not end up like Texas, New Mexico, and other states where lack of vaccinations has needlessly ushered in the reappearance of this deadly disease.

Thank you.

Debra Huber

**Testimony  
House Bill 1391  
Senate Industry and Business  
Tuesday March 18, 2025  
Rolette County Public Health District**

Good morning, Chairman Barta and members of the Senate Industry and Business Committee.

My name is Barbara Frydenlund, I am a Registered Nurse and the administrator of Rolette County Public Health. Rolette County Public Health District serves Rolette County located in District 9.

I am here today in opposition to HB 1391.

I am very concerned about how this legislation would limit businesses' ability to protect their employees, customers, and financial stability from vaccine-preventable diseases.

As a public health administrator, I am responsible for ensuring a healthy and capable public health workforce, a workforce that is ready to respond to the public health needs of the community. Limiting vaccine documentation requirements could undermine this readiness by increasing the risk of preventable diseases, thereby potentially compromising the effectiveness and preparedness of the public health workforce. Our public health mission can be interpreted to implementing, reasonable measures to protect the health, safety and welfare of our community.

At no point would I want to be responsible for an employee contracting vaccine preventable disease from a fellow employee or for an employee spreading a vaccine preventable disease to a client/patient. Either of these scenarios would increase the distrust of healthcare providers, send a message to the public that we have

careless employee policy. This could also create friction and potentially create a segregated workplace environment. Please keep in mind that there are individuals that are unable to be vaccinated due to age, being medically fragile or medically incompatible with vaccines, such as a severe allergy or pregnancy. North Dakota has extremely liberal vaccine exemptions and may be abused in some situations.

The unintended consequence of this legislature could be that North Dakota is discriminating against and placing greater health risks to the individuals too young to be vaccinated, the medically fragile and the those with a true incompatibility with a vaccine such as allergies and pregnancy.

Please consider the circumstance of a nurse, unvaccinated for a serious vaccine preventable disease, and working with immunocompromised cancer patients. He/she could have the ability to wipe out his/her entire patient assignment by spreading this disease to medically vulnerable individuals. I can't imagine the uproar from the family and community if such a catastrophic event occurred. Not to mention the litigation to follow.

As a nurse, I am concerned about any legislation that could prevent educational institutions from enforcing necessary vaccine documentation requirements, potentially undermining decades of successful school immunization programs and increasing the risk of preventable diseases in school settings.

As I read through this legislation, I am plagued with the concept that this could be interpreted as another weapon in the anti-vaccination arsenal in attempt to undermine employer and institutional vaccine requirements. Such efforts ultimately pose a threat to state, national and global public health. Today we live in a state that is relatively free of vaccine preventable disease, the same diseases

that historically killed many of our ancestors....I do not want to experience this dreadful repeat of history.

An infectious disease instructor once told my college class that “if one individual can excuse themselves, so could too many others—and the result could endanger the entire community, province or nation”. This was simply a reference to “herd immunity” or lack thereof.

I ask you to please vote Do Not Pass on HB 1391.

I stand for questions.

Thank you,

Barbara Frydenlund, RN

Rolette County Public Health

Kristin Nelson

3/16/25

5409 20<sup>th</sup> Street South

Fargo, ND

District 46

**DO NOT PASS HB 1391**

Chair Barta and members of the Senate Industry and Business Committee:

I write to you today to urge a **DO NOT PASS** recommendation for HB 1391. Health status is not a federally recognized protected class. I can only imagine the problems this bill would create to enforce this bill. Health Status is broad and almost impossible to regulate.

Schools, hospitals, child care programs, and other workplaces with vulnerable populations need to be able to excuse people with infectious conditions. They need to remain safe places to be, and this bill will certainly lead to the rise of whooping cough, tuberculosis, and measles. Employers should not fear getting sued for protecting their vulnerable populations.

For those reasons, **DO NOT PASS HB 1391**.

Respectfully submitted:

Kristin Nelson (she/her)

Dr. Jake Schmitz, DCN, MS, DC  
4233 44th Avenue South, Fargo, ND 58104  
701-770-0185  
[drjakedc4u@gmail.com](mailto:drjakedc4u@gmail.com)

- Business co-owner of several entities in ND involving land, minerals, water, and real estate
- Associates degree at Williston State College, BS in Chemistry at Dickinson State University, Doctor of Chiropractic at Northwestern Health Sciences University, Master's degree in Human Nutrition and Functional Medicine at University of Western States, and Doctorate in Clinical Nutrition at University of Western States
- Married with 5 children

Chairman Barta and Members of the Senate Industry and Business Committee,

I am writing to express my strong support for HB 1391 and to respectfully urge a "DO PASS" recommendation from this committee. This bill is a crucial step toward ensuring that all North Dakotans are protected from discrimination based on their health status and medical choices. As a fundamental issue of individual rights and medical freedom, this legislation affirms the principle that no person should face prejudice or unequal treatment due to their personal health circumstances or decisions.

The addition of "health status" as a protected category aligns with North Dakota's commitment to fairness, equal opportunity, and personal autonomy. Discrimination based on health status can take many forms, including employment barriers, access to education, housing restrictions, and public accommodations. Without explicit protections, individuals with chronic conditions, disabilities, or those who exercise informed consent regarding medical treatments may face undue hardship and exclusion from full participation in society.

This bill does not create new obligations for businesses or healthcare providers beyond what is already required under existing non-discrimination laws. Instead, it reinforces the idea that medical decisions—whether they involve vaccination, medical treatments, or other health-related choices—should not be grounds for differential treatment. Medical privacy and autonomy are foundational principles in our healthcare system, and HB 1391 ensures that individuals are not coerced or penalized for making personal health decisions.

Furthermore, HB 1391 is consistent with broader constitutional principles, including the right to bodily autonomy and the protection of personal freedoms. Federal courts have long recognized the importance of informed consent and the right to refuse medical treatment (*Cruzan v. Director, Missouri Department of Health*, 497 U.S. 261, 1990). This bill ensures that North Dakota upholds these principles by safeguarding individuals from discrimination related to their health status.

Passing HB 1391 would send a clear message that North Dakota values personal freedom and equal treatment under the law. It would affirm our state's commitment to protecting citizens from undue discrimination while ensuring that individuals retain the right to make informed choices about their health without fear of reprisal or exclusion.

I respectfully urge this committee to provide a "DO PASS" recommendation for HB 1391 and to advance this important protection for the people of North Dakota.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Schmitz', with a long horizontal line extending to the right.

Dr. Jake Schmitz  
President, Association of Wellness Chiropractors  
Fargo, ND



69<sup>th</sup> Legislative Assembly  
Regular Session (2025)

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H.B. 1391

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OPPOSITION

Senate Industry and Business Committee

Sen. Jeff Barta, Chairman  
Sen. Keith Boehm, Vice Chairman

Testimony of Zachary Greenberg

Interim Commissioner of Labor  
N.D. Department of Labor and Human Rights

March 18, 2025

## **Chairman Barta & Members of the Committee,**

Thank you for the opportunity to provide testimony on HB 1391. My name is Zachary Greenberg, and I serve as the Interim Commissioner of the Department of Labor and Human Rights. While I fully support efforts to ensure fair treatment for all North Dakotans, I have serious concerns about the administrative and procedural burdens this bill would impose on the Department.

### **Increased Case Filings and Administrative Challenges**

As drafted, HB 1391 would add “health status” as a protected category under the state’s anti-discrimination laws. This expansion would significantly increase the number and complexity of discrimination claims filed with our Department. Unlike established protected categories such as race, sex, age, or disability—where legal frameworks and precedents provide clarity—this new category introduces substantial ambiguity. It would require extensive regulatory interpretation, staff training, and adjudication, straining our existing resources.

A key concern is that this provision would create a legal entitlement to reasonable accommodations for individuals who do not qualify as having a disability under the Americans with Disabilities Act (ADA). For example, under current law, an individual who refuses a vaccine for personal reasons—but lacks a disability or religious objection—is not entitled to a workplace accommodation. However, if “health status” were a protected category, an employee could claim discrimination if an employer denies them accommodations—such as remote work or modified duties—based solely on their decision to forgo a vaccine or other medical treatment. This would place a significant burden on employers, who would be forced to assess and implement accommodations beyond existing legal requirements.

### **Legal Uncertainty and Workplace Safety Concerns**

Beyond vaccine-related concerns, the broad definition of “health status” could create additional legal uncertainties. Unlike traditional discrimination claims, cases involving “health status” would require the Department to evaluate medical histories, personal treatment decisions, and employer health and safety policies—areas that lack federal precedent. Navigating this uncharted legal territory would likely lead to prolonged investigations and costly litigation.

Additionally, the broad scope of “health status” could have unintended consequences for workplace policies. For example, if an employer requires a drug test as a condition of employment and an individual refuses on the basis of “health status,” the employer’s

decision to terminate them could result in a discrimination claim. This could severely limit an employer's ability to enforce workplace safety policies and maintain a drug-free work environment.

### **Resource Strain and Recommendation**

To manage the anticipated surge in cases, the Department would require additional staffing and resources. Our fiscal note reflects the need for five additional full-time employees: four Compliance Investigators and one Administrative Assistant. Without these resources, case backlogs would grow exponentially, delaying resolutions for all claimants—including those filing under well-established protections.

For these reasons, I respectfully urge the committee to issue a DO NOT PASS recommendation on HB 1391 due to the strain it would place on the Department's ability to enforce North Dakota's anti-discrimination laws effectively.

Thank you for your time. I am happy to answer any questions.



## **Senate Industry and Business Committee**

### **HB 1391**

**March 18, 2025**

Chairman Barta and Committee Members, I'm Courtney Koebele and I serve as executive director of the North Dakota Medical Association. The North Dakota Medical Association is the professional membership organization for North Dakota physicians, residents, and medical students.

NDMA opposes HB 1391. This bill increases the likelihood of lawsuits and claims against businesses, strains the Department of Labor's investigative capacity by requiring evaluation of medical histories and employer policies, and lacks federal precedent for these discrimination claims. Additionally, it would prevent public accommodations and services, including childcare facilities, schools, universities, correctional facilities, and restaurants, from preventing the spread of infectious diseases by excluding individuals who are actively sick, thereby risking the health of employees and customers. Childcare facilities would be required to accept unvaccinated children, placing infants and immunocompromised children at risk for diseases. Employers should be able to set health and safety policies, including considering health status, to protect their employees and customers without government interference. This includes implementing reasonable workplace safety measures.

- This legislation restricts businesses' rights and freedoms to protect their employees, customers, and economic success from vaccine-preventable diseases.

- Educational institutions could not enforce vaccine requirements, undermining existing school requirements that have kept students and teachers safe for decades.
- Generally, there is caution in expanding protected classes around discrimination regarding other areas of the law. Yet, this bill does exactly that, creating a new protected class around the unvaccinated.

Thank you for the opportunity to address this committee. I would be happy to answer any questions.



**2025 HB 1391**  
**Senate Industry and Business Committee**  
**Senator Jeff Barta, Chairman**  
**March 18, 2025**

Chairman Barta and members of the Senate Industry and Business Committee, I am Melissa Hauer, General Counsel/VP, of the North Dakota Hospital Association. I am here to testify in opposition to House Bill 1391 and ask that you give the bill a **Do Not Pass** recommendation.

The North Dakota Hospital Association (NDHA) represents 46 hospitals in the state. These members include large hospitals, critical access hospitals, and specialty hospitals. The bill would create a new class of prohibited discrimination on the basis of "health status." Like discrimination based on age, gender, religion or any of the currently protected classes, this bill would provide that an employer could not discriminate against an employee based on the employee's health status. Health status is defined to mean an individual's medical records or preferences relating to the right to refuse a medical procedure, treatment, injection, device, vaccine, or prophylactic. It would be a discriminatory practice for an employer to fail or refuse to make a reasonable accommodation because of an employee's health status.

While we agree that hiring, firing, promoting, demoting, and job assignments should be fair and free from discrimination based on protections in current federal and state laws, we are concerned about the potential far reaching and unintended consequences of adding "health status" as an additional protected class. The bill creates a legal entitlement to reasonable accommodation because of an employee's health status. This new category would add ambiguity to the current state of discrimination law. The engrossed bill adds some flexibilities for health care employers but we continue to have serious concerns about the bill. The amendments provide that a health care facility does not unlawfully discriminate if it asks an employee to volunteer specific health status information for the purpose of determining whether the facility should implement reasonable accommodation measures to protect the safety and health of employees, patients, visitors, and other individuals from communicable diseases; and the facility offers reasonable accommodation

measures to protect the health and safety of individuals from communicable diseases. It provides that a health care facility may consider an employee who declines to provide health status information to be at risk for a communicable disease for purposes of determining whether reasonable accommodation measures must be implemented.

The amendments to the bill specific to health care facilities in Section 13 appear to have considered communicable diseases to be the only situation which a health care facility would encounter where an employee may refuse to “volunteer specific health status information.” For example, it appears that a health care facility could not require an employee to undergo drug testing if it suspected the employee of being impaired while at work. The employee could merely refuse to “volunteer” information about the suspected drug or alcohol use and could refuse to undergo drug testing. The only recourse the bill would give the employer would be to provide a “reasonable accommodation” to the employee. However, a drug or alcohol impairment is obviously not a communicable disease and not a condition that a health care facility can reasonably accommodate while keeping patients safe.

If this bill is really only intended to address vaccine status, as worded, it does not accomplish its intent and is dangerously overbroad. It unnecessarily and dangerously restricts employers' rights and duty to protect their employees, patients, and visitors from communicable diseases that can be prevented by immunizations and other health conditions that could put patient care at risk. Health care facilities are already required to provide religious and medical exemptions to employees who have a legitimate need or belief to avoid vaccinations. Barring one of those reasons, hospitals must be able to enforce vaccine requirements and other patient safety requirements quickly and adequately. To do otherwise puts not only employees, visitors, and vulnerable patients at risk, it also risks hospitals' ability to participate in the Medicare and Medicaid programs both of which have infection control requirements that necessitate employee vaccinations to prevent the spread of communicable diseases.

Thank you for your consideration. We ask that you give the bill a **Do Not Pass** recommendation. I would be happy to respond to any questions you may have.

Respectfully Submitted,

Melissa Hauer, General Counsel/VP  
North Dakota Hospital Association

**2025 HB 1391**  
**Senate Industry and Business Committee**  
**Senator Barta, Chairman**  
**March 18, 2025**

Chairman Barta and members of the Senate Industry and Business Committee, my name is Brittney Blake, and I have the pleasure of serving as Corporate Counsel of Altru Health System (Altru). Altru stands in opposition to House Bill 1391 and asks that you give this bill a **Do Not Pass** recommendation.

HB 1391 proposes adding "health status" as a protected category under the state's anti-discrimination laws and defines "health status" to mean "an individual's medical records or preferences relating to the right to refuse a medical procedure, treatment, injection, device, vaccine, or prophylactic." [Emphasis added]

**Patient Safety**

Altru is a patient-centered health organization dedicated to serving our community. Our organization, staff, and students are committed to the health and safety of our patients; especially those with compromised immune systems or in vulnerable conditions. To ensure the safety of our patients, we implement many infection control and safety best practices to include but not limited to requiring employees be vaccinated against serious vaccine-preventable illnesses and occasionally drug tested if in safety sensitive positions caring for vulnerable patients.

As drafted, Altru is concerned that HB 1391 would prohibit our organization from requiring employees be vaccinated and may even prohibit our organization from taking adverse employment action against employees providing direct patient care and refusing to be drug tested based upon their medical choice. Both of these consequences, unintended or otherwise, could be detrimental to patient and employee safety.

**Exemptions and Employee Protections in Place**

Not only would adding "health status" as a protected category to the North Dakota Human Rights Act (NDHRA) be detrimental to patient care and safety, but it will also cause



unprecedented confusion in our legal system and is simply not necessary to protect North Dakota employees from discrimination. State and federal law, to include, but not limited to NDHRA, the Americans with Disabilities Act (ADA), or Title VII of the Civil Rights Act of 1964 already protect employees from employment discrimination and provide the ability to seek exemptions for both medical and religious reasons. Organizations across North Dakota, including Altru, have been abiding by these laws and providing exemptions to vaccinations for years. Further, in more recent years, federal case law has required employers to accommodate religious beliefs unless doing so creates an undue hardship, which is arguably now interpreted more stringently. Ultimately, making religious exemptions easier to receive.

HB 1391 is not necessary to protect North Dakota employees and will cause more harm to North Dakota patients than good. I respectfully urge the committee to recommend a DO NOT PASS on HB 1391 of North Dakota's anti-discrimination laws.

Respectfully Submitted,

Brittney Blake

March 17, 2025

Dear Chairman Barta, Vice Chairman Boehm, and members of the Senate Business and Industry Committee:

My name is Ann Fritz and I am a resident of Bismarck, District 7. I am sorry I am not able to present my testimony in person to you today, but I appreciate the opportunity to provide written testimony.

I am expressing my strong opposition to HB 1391 relating to creating a new status, "health status", related to North Dakota human rights and antidiscrimination policies. Discrimination typically involves unfair treatment based on inherent characteristics like race or gender for example. Vaccination and refusal of medical treatment is a *voluntary choice* that can have deadly consequences not only to that individual, but to entire communities. We need look no further than current measles outbreaks in Texas, New Mexico and cases elsewhere in the U.S. where more than 300 people have been infected and 95% of those infected are unvaccinated<sup>1</sup>.

I am afraid that this bill will have potentially unintended bad public health consequences for our future. It will be costly and almost impossible to implement, and disastrous for schools and daycares, as well as senior communities and everywhere we wish the vulnerable and immunocompromised members of our communities to be safe from potential infection of vaccine preventable diseases. The bill seems to be simply a reaction to the COVID "vaccine mandates" that was, hopefully, a once in a lifetime global pandemic event.

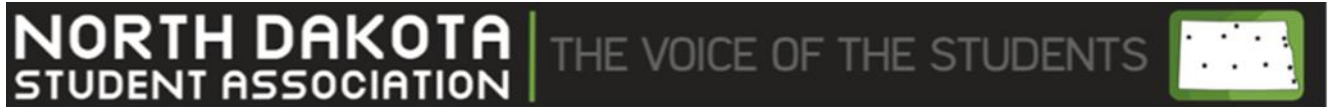
I urge you please send a clear DO NOT PASS message to your colleagues in the Senate regarding HB 1391. Thank you for your careful consideration of this, and all bills that are before the Committee.

With gratitude,

Ann Fritz

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<sup>1</sup> <https://www.cdc.gov/measles/data-research/index.html>. Page accessed March 17, 2025

**HB 1391**

March 18, 2025

Carter Gill, North Dakota Student Association

(701) 388-7589 | [carter.gill@ndus.edu](mailto:carter.gill@ndus.edu)

Chair Barta and Members of the Committee: My name is Carter Gill, and I am Vice President of Governmental Affairs for the North Dakota Student Association. I am here today in opposition of HB 1391.

The North Dakota Student Association is dedicated to ensuring that students have a voice at the table in policy that affects higher education. We consist of delegates from each of the 11 public North Dakota University System (NDUS) institutions, meeting monthly to engage students in discussions about North Dakota higher education policy. Since 1969, our mission has been to empower students, create collaboration between the student bodies of the North Dakota public universities, and to provide a student perspective on higher education policy.

In our March meeting, the NDSA passed [NDSA-28-2425](#): A Resolution in Opposition to HB 1391: Creating a New Status Related to Human Rights and Anti-Discrimination Policies. I will also add that this resolution in opposition to this bill was unanimously approved by delegates from all 11 NDUS institutions. Without going into the politicized aspects of this bill, especially since the increased politicization in the last five years, the main concern of the NDSA regarding this bill is the potential health risks for students at NDUS campuses. Below is an excerpt of NDSA-28-2425:

**WHEREAS**, HB 1391 defines health status as “an individual's medical records or preferences relating to the right to refuse a medical procedure, treatment, injection, device, vaccine, or prophylactic”; and,

**WHEREAS**, incorporating health status as a protected class poses serious health risks to NDUS students, faculty, and staff due to the fact that an NDUS institution would not be able to prevent

a student who is not vaccinated for preventable communicable diseases such as meningococcal disease, MMR (measles, mumps and rubella), and hepatitis B from working in campus spaces such as dining halls and residence halls, increasing the risk of students contracting these diseases; and,

**WHEREAS**, should HB 1391, NDUS employers such as food services, libraries and student services cannot require that students have these immunizations to be eligible for employment or that students not come into work should they contract communicable diseases; so,

**THEREFORE, BE IT RESOLVED**, the NDSA opposes HB 1391, as it would jeopardize the general health safety of the student population as well as faculty and staff across the NDUS campuses; and,

**THEREFORE, BE IT FURTHER RESOLVED**, the NDSA suggests HB 1391 to be amended to reflect the stances of the medical community regarding definitions and recommendations for community safety.

In summary, the NDSA believes that the dangers of this bill far outweigh any potential benefits and we as an organization strongly oppose this bill. I ask that this committee gives this bill a DO NOT PASS recommendation.

**Do Pass Testimony  
of Doug Sharbono, citizen of North Dakota  
on HB1391  
in the Sixty-ninth Legislative Assembly of North Dakota**

Dear Chairman Barta and Members of the Senate Industry and Business Committee,

I am writing as a citizen and believe HB1391 is much needed legislation that will simply protect those who wish not to participate in mandated shots, vaccinations, and other procedures. I ask for a Do Pass on HB1391.

North Dakota citizens have undergone an absolute disaster in terms of the handling of the COVID-19 pandemic. As I casually look around, I see far, far worse health after the mandated shots than before. Unusually high death rates, unusually high cancer rates, unusually high autoimmune disorder rates, unusually high RSV rates, and unusually high sudden onset blindness are just a few of the poor health conditions I see in the community around me following the COVID-19 injections. As a result, we need some safeguards. HB1391 gives us this that protection.

Please give HB1391 a Do Pass. Thank you,

Doug Sharbono  
1708 9<sup>th</sup> St S  
Fargo, ND 58103

**Senate Industry and Business Committee**  
**March 18th, 2025 HB 1391**  
**Testimony in Opposition**

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Dear Chair Barta and the members of the Senate Industry and Business Committee,

I urge a "Do Not Pass" on HB 1391.

Some reporting by [North Dakota Monitor in August of last year](#), revealed the unfortunate trend of less youth being fully vaccinated against preventable diseases. Nationally, we have seen a rise in [such things like Polio, due to anti-vaccination beliefs](#).

While I think reasonable people could understand the concerns individuals have around such vaccines like COVID, the panic that centered on COVID vaccinations has created distrust in our medical institutes that we've relied on for decades to keep our populations safe.

In this time vaccine misinformation has stoked fear and led to an abandoning of public health practices that saved lives. While our governments choose not to make COVID vaccines mandatory, people's choice to not get vaccinated resulted in several hundred thousand preventable deaths by many different estimates, some showing even greater impact.

Regardless, to balance the liberty people enjoy with their risk of harming their kids or neighbors, we imposed restrictions based on their vaccine status. This balances public health against the harm people pose who willingly spread diseases. As the statement has echoed across law theory for some time, a person's right to infect me should stop at my nose.

I work in healthcare and would prefer further restrictions to protect vulnerable populations, especially people's children from the harm of things like Polio or Whooping Cough. I believe vaccines should be mandatory. But the compromise we've come to as a society is to let someone who wishes to go against public health do so, but also to be barred from hurting others for their choices. What HB 1391 does is give people the freedom to infect.

We have to tackle the reality that people who aren't vaccinated are a danger to others. And if we are allowing this bill, I'm not sure why we'd continue to arrest people while driving drunk. As we think about public health, society, and liberty we must as adults understand there must be compromise. There are several aspects of society that are not exactly how I'd like them, but I understand there is some consensus to this of give and take. And in this regard, I urge a Do not Pass.

Thank you for your time, consideration, and service to our state,  
Faye Seidler



**Senate Industry and Business Committee  
Senator Jeff Barta, Chair  
March 18, 2025  
HB 1391**

Chairman Barta and members of the Senate Industry and Business Committee:

I am Chris Meeker, a board-certified emergency physician and I serve as chief medical officer at Sanford Health Bismarck. I am here to testify in opposition to House Bill 1391. I respectfully ask that you give this bill a **Do Not Pass** recommendation.

By creating a protected class for individuals who refuse medical interventions such as vaccinations and drug testing, the bill restricts hospitals' ability to protect employees and the patients we serve. Current North Dakota law provides that all individuals have the right to refuse a vaccination based upon medical or religious objections.

As an example, at Sanford when we require an influenza vaccination, it is to keep our staff and our patients safe. Employees have the right to opt out of the vaccination and we work with those employee to make accommodations that allow them to work while not putting others at risk of infection from a non-vaccinated employee. If this bill is passed, however, we may be at risk from litigation from employees who believe they have been unfairly treated if and when we must remove them from patient care areas to protect patients or to comply with applicable federal requirements.

Additionally, we are concerned passage of HB 1391 could be problematic for our safety-related employee drug testing policies. To be specific, a drug test could be categorized as a "medical procedure" as included in this bill because a drug test, e.g. a urinalysis, is diagnostic.

The bill sponsor offered a late amendment to seemingly carve out healthcare facilities. While the effort is appreciated, stakeholders were not provided an opportunity to review the amendment and we do not believe the language would protect healthcare facilities from the potential for litigation. (PER ANGIE: "The amendment only allows us to ask for information and use it to prevent spread of communicable disease. So, if it was a violation of another policy this amendment may not apply.")

For these reasons I ask that you please vote NO on HB 1391.

Thank you for your consideration and I would stand for any questions.

Sincerely,

Respectfully Submitted,  
Chris Meeker, M.D.  
Chief Medical Officer  
Sanford Health Bismarck  
[Chris.Meeker@Sanfordhealth.org](mailto:Chris.Meeker@Sanfordhealth.org)  
701-323-2601 (office)  
701-226-1461 (mobile)

**Testimony**  
**House Bill No.1391**  
**Senate Industry and Business Committee**  
**Senator Barta, Chairman**  
March 18, 2025

Chairman Barta, and members of the Senate Industry and Business Committee, I am Molly Howell, Assistant Director of Disease Control and Forensic Pathology with the Department of Health and Human Services (Department). I appear before you in opposition of House Bill No. 1391.

In Section 2, subsection 10, "Health Status" is defined as "an individual's medical records or preferences relating to the right to refuse a medical procedure, treatment, injection, device, vaccine or prophylactic." In Section 2, subsection 15, "public accommodation," as defined, appears to be any establishment in the state, including restaurants, childcares, grocery stores, or concert venues. In Section 2, subsection 16, "public services," as defined, would include all state and local agencies, schools, and public facilities.

Section 9, subsection 1 states it would be discrimination for "a person engaged in the provision of public accommodations" to refuse access to services based on "health status." Similarly, Section 10, subsection 1, states the same for "public services." This means that an individual with an infectious disease, including tuberculosis, E. Coli, hepatitis A, Ebola, or measles, could not be excluded from public accommodations or public services. Therefore, an individual with a known infectious disease would be allowed to spread the disease to others.



Of public health concern, is that this bill appears to limit public health actions that extend to infectious diseases, including isolation and quarantine. The bill would not allow public accommodations or services, including childcares, schools, universities, correctional facilities, restaurants, etc. to prevent the spread of infectious diseases by excluding individuals who are actively sick, risking the health of employees and customers. Childcares would be forced to accept children who are not immunized, placing young infants too young to be immunized at risk.

House Bill No. 1391 also potentially conflicts with North Dakota Century Code 23-07-17.1, which if an epidemic exists, allows the state health officer to exclude unimmunized children from schools or childcares to prevent outbreaks of vaccine-preventable diseases. For example, if a measles case occurs in a school, children who are not immunized and likely to have measles could not be excluded to prevent the spread of disease.

The Department requests amendments to House Bill No. 1391 to remove health status from Sections 9 and 10. The other option would be to add language that it is not discrimination if there is a threat to an individual's health or safety.

In conclusion, this bill limits the ability of businesses, institutions of higher education, group homes, corrections, and healthcare facilities to operate in a manner that maximizes the health and safety of students, customers, patients, residents, staff and healthcare providers.

This concludes my testimony. I would be happy to try to answer any questions the committee may have. Thank you.



GREATER NORTH DAKOTA CHAMBER  
HB 1391  
Senate Industry and Business Committee  
Chair Jeff Barta  
March 18, 2025

Mr. Chairman and members of the Committee, my name is Arik Spencer, and I am the President and CEO of the Greater North Dakota Chamber. GNDC is North Dakota's largest statewide business advocacy organization, with membership represented by small and large businesses, local chambers, and trade and industry associations across the state. We stand in **opposition** to House Bill 1391.

GNDC believes the Legislature should enact pro-business policies and timely processes that improve the legal and regulatory environment. HB 1391 does the opposite by creating a new protected employee classification, which will expose employers to increased legal liability.

Under existing law, employers are required to provide reasonable accommodation for an employee's needs as they relate to being in a protected class as long as the accommodation does not:

- A. Unduly disrupt or interfere with the employer's normal operations;
- B. Threaten the health or safety of the individual with a disability or others;
- C. Contradict a business necessity of the employer; or
- D. Impose undue hardship on the employer, based on the size of the employer's business, the type of business, the financial resources of the employer, and the estimated cost and extent of the accommodation.

You can see this information on page 4, lines 21-27 of HB 1391.

Creating a newly protected class with little other case law or precedent needlessly exposes employers to legal liability from the employee if the employer cannot make the requested accommodation.

We urge a DO NOT PASS on HB 1391

**HB 1391****Senate Industry and Business****March 18th, 2025 | 10:00 a.m.**

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Chairperson Barta and distinguished members of the Senate Industry and Business Committee, thank you for the opportunity to provide testimony today. My name is Sandra Tibke, and I am the Executive Director of the Foundation for a Healthy North Dakota. I will detail the economic, social, and operational concerns of House Bill 1391. While the bill purports to expand anti-discrimination protections by adding “health status” as a protected category, its unintended consequences burden the state, businesses, and public health infrastructure.

### **Economic Burden on the State and Businesses**

The fiscal analysis of HB1391 indicates that its implementation would necessitate additional staffing and administrative expenditures for the Department of Labor and Human Rights. Specifically, the bill is projected to require the addition of five full-time employees, costing an estimated \$788,533 for the current biennium and nearly \$836,554 for subsequent periods. These costs, charged entirely to the General Fund, risk diverting resources from other critical state programs and services. Moreover, the broadened definition of “health status” opens the door to costly litigation and increased legal uncertainty for businesses, further elevating compliance costs. Small and medium enterprises will struggle to absorb these unforeseen expenses, potentially leading to reduced hiring or operational scaling that could negatively affect the state’s economic climate.

### **Public Health Risks**

One of the primary concerns with HB1391 lies in its impact on public health, a priority that extends beyond individual liberties. The bill interferes with essential public health protocols by mandating entities such as schools, childcare facilities, and healthcare providers accept individuals regardless of their health status. For instance, current public health laws allow the exclusion of unimmunized children during epidemics to mitigate the spread of vaccine-preventable diseases. The insistence on protecting “health status” means that vital measures to safeguard vulnerable populations—infants, immunocompromised individuals, and the elderly—could be severely compromised. Under HB1391, institutions would be forced to accept individuals with potentially infectious diseases, increasing the risk of outbreaks and undermining decades of successful immunization efforts.

## **Operational Challenges for Employers and Institutions**

Employers across multiple industries will face unforeseen operational challenges due to the restrictions imposed by HB1391. The bill would prevent businesses from enforcing robust health and safety protocols, such as excluding employees or visitors who exhibit signs of infectious disease. This inability to implement necessary health measures threatens both workplace safety and productivity. In sectors such as healthcare, food service, and education, the risk of communicable disease outbreaks could directly compromise employee well-being, customer safety, and the overall operational effectiveness of these organizations. Moreover, ambiguity surrounding “reasonable accommodations” for individuals who refuse to disclose their health status will likely lead to administrative inefficiencies and increased liability, further exacerbating operational challenges.

## **Dilution of Anti-Discrimination Protections**

Expanding the definition of protected classes to include “health status” introduces a profound shift in the purpose of anti-discrimination legislation. Traditionally, these laws have focused on inherent, immutable characteristics such as race, gender, and disability; by extending protections to health status—a category encompassing personal health choices such as refusing medical procedures or vaccines—the bill risks diluting the strong legal and social precedent underpinning these protections. This dilution undermines the intention of providing robust and targeted protections against discrimination and sows confusion over what constitutes a protected characteristic, eroding public trust in anti-discrimination protections.

## **Legal Precedent and Uncertainty**

A significant concern is the lack of federal precedent supporting “health status” as a protected class. The absence of such guidance is a recipe for legal ambiguity. With no clear precedent, employers and institutions are left to navigate a murky regulatory landscape that could lead to inconsistent law applications and a proliferation of lawsuits. This uncertainty increases the financial risks for businesses and hampers the state’s ability to enforce a coherent, fair standard across industries. The resulting legal disputes would impose additional burdens on the judiciary and state resources, ultimately detracting from the bill’s intended benefits.

## **Unintended Consequences and Practical Implications**

Beyond economic and legal concerns, HB1391 portends several unintended practical consequences. For example, public institutions might be coerced into allowing scenarios where children who have not met essential health requirements—such as completing routine sports physicals—can participate in school athletics out of fear of discrimination

claims. Similarly, the bill could hinder employers' ability to respond swiftly to emerging public health threats, further eroding the practical effectiveness of established safety protocols. Such scenarios illustrate a fundamental misalignment between the bill's intentions and the needs of both public and private sectors in maintaining safe, healthy environments.

## Conclusion

In summary, despite its stated aim to expand anti-discrimination protections, HB1391 presents an economically burdensome, legally uncertain framework and is operationally impractical. The financial strain imposed on the state, compounded by potential litigation and administrative challenges, could adversely affect North Dakota's economic stability. Moreover, the public health risks inherent in requiring the removal of established safety protocols represent a critical vulnerability, particularly for the state's most at-risk populations. I respectfully urge this committee to vote against HB 1391 for these reasons. Thank you for your time and consideration.

# 2025 SENATE STANDING COMMITTEE MINUTES

## Industry and Business Committee Fort Union Room, State Capitol

HB 1391  
3/24/2025

A bill relating to health status exceptions for health care facilities and relating to creating a new status related to human rights and antidiscrimination policies.

2:35 p.m. Chairman Barta opened the hearing.

Members present: Chairman Barta, Vice-Chair Boehm, Senator Klein, Senator Kessel, Senator Enget

### Discussion Topics:

- Department of Labor
- Health Care exemptions
- Federal mandates and distrust in federal authority
- Definition of health status
- Possible amendments
- Fiscal impact
- COVID-19 pandemic and the 2021 Session
- Additional discriminatory classes
- Relevancy of issue among constituents
- Proactivity, future pandemics, and existing legislature

2:35 p.m. Chairman Barta led the discussion.

2:57 p.m. Senator Klein moved a Do Not Pass.

2:57 p.m. Senator Kessel seconded the motion.

Senators	Vote
Senator Jeff Barta	Y
Senator Keith Boehm	N
Senator Mark Enget	N
Senator Greg Kessel	Y
Senator Jerry Klein	Y

Motion passed 3-2-0.

Senator Klein will carry the bill.

2:58 p.m. Chairman Barta closed the hearing.

*Audrey Oswald, Committee Clerk*

**REPORT OF STANDING COMMITTEE  
ENGROSSED HB 1391 ([25.1065.02000](#))**

**Industry and Business Committee (Sen. Barta, Chairman)** recommends **DO NOT PASS** (3 YEAS, 2 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). HB 1391 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.