2025 HOUSE INDUSTRY, BUSINESS AND LABOR HB 1454

2025 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee

Room JW327C, State Capitol

HB 1454 1/29/2025

A BILL for an Act to create and enact a new section to chapter 32-12.1 of the North Dakota Century Code, relating to the medical liability of a government entity.

10:11 a.m. Chairman Warrey opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, Brown, Christy, Finley-DeVille, Grindberg, Kasper, Koppelman, D. Ruby, Schatz, Schauer, Vollmer

Discussion Topics:

- Forced liability
- Mandated liability
- Alternative vaccination
- Conflict with federal regulations
- Hamper investigations
- Student immunization records
- Public health best practices
- National Vaccine Injury Compensation Act
- 10:11 a.m. Representative Donna Henderson, District 15, Calvin ND, introduced, testified and submitted testimony #32608.
- 10:29 a.m. Alexa J. Johnson, West Fargo, ND, testified and submitted testimony #32433
- 10:38 a.m. Sarah Aker, Executive Director, ND Department of Health & Human Services, testified in opposition and submitted testimony #32167.
- 10:41 p.m. Dr. Stephanie Gravning, Correctional Health Authority, Department of Corrections and Rehabilitation, testified in opposition and submitted testimony #31879.
- 10:46 a.m. Marina Spahr, Director Medicaid Fraud Control Unit, Assistant Attorney General, ND Attorney General Office, Medicaid Fraud Control Unit, testified in opposition and submitted testimony #32238.
- 10:49 a.m. Molly Howell, Immunization Director, ND Department of Health and Human Services, testified as neutral.
- 10:54 a.m. Alexis Wangler, Linton, ND, testified as neutral.
- 10:57 a.m. Katie Fitzsimmons, Director of Student Affairs, North Dakota University System, testified as neutral and submitted testimony #32492.

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Additional written testimony:

Christine R. Miller, Bismarck, ND, submitted testimony in favor #32258 and #32259. Jessica Doty, University of North Dakota, submitted testimony in opposition #32289. Steven Nagel, Practitioner, 18 Health Solutions, submitted testimony in favor #32343. Lisa Pulkrabek, Mandan, ND, submitted testimony in favor #32351.

Amy De Kok, Executive Director, ND School Boards Association, submitted testimony in opposition #32367

Kylie Hall, Fargo, ND, submitted testimony in opposition #32419.

Sandy Tibke, Executive Director, Foundation for a Healthy ND, submitted testimony in opposition #37959

11:12 a.m. Chairman Warrey closed the meeting.

Diane Lillis, Committee Clerk

House Industry, Business, and Labor Committee Representative Jonathan Warrey, CHAIR January 29, 2025

NORTH DAKOTA DEPARTMENT OF CORRECTIONS AND REHABILITATION PRESENTING OPPOSITION TESTIMONY REGARDING HOUSE BILL 1454

Chair Warrey and member of the House Industry, Business, and Labor Committee, I am Dr. Stephanie Gravning, Health Authority for the Department of Corrections and Rehabilitation (DOCR). Today, I submit this verbal and written testimony regarding the possible impact of House Bill 1454 on medical operations in the DOCR.

Thank you for the opportunity to discuss this bill and the impact it will have on physical and mental health of North Dakota's incarcerated population. Our mission at the DOCR is transforming lives, influencing change, and strengthening community through a vision of health and productive neighbors, a safe North Dakota.

Approximately 85% of the incarcerated population suffers from mental health disorders, substance use disorders, or both. A subset of this population suffers from severe mental illness which can be well controlled with medication. Infrequently, these serious mental illnesses may cause grave disability and impaired decision making. In these situations, a patient presents an imminent danger to themselves and others.

Under the authority of chapter 54-23.3 and section 12-47-12 of North Dakota Century Code, DOCR has established procedures for the involuntary administration of psychotropic medication to an adult in custody suffering from a mental disorder who, as a result of the disorder, is gravely disabled or presents the likelihood of serious harm to self, others, or property. Administration of involuntary psychotropic medication follows due process governed by the principles of medical ethics.

This procedure includes the attempt to obtain consent if the adult in custody is capable of giving valid informed consent to treatment. In an emergency situation, administration of involuntary psychotropic medication may be ordered for a maximum of 72 hours after which a written request must be submitted to a committee for a 14-day Involuntary Psychotropic Hearing. The hearing takes place in front of a committee that includes a non-treating psychiatrist and non-treating psychologist to determine if the request is appropriate. The patient is offered the opportunity to appeal the decision of the committee if the hearing grants the 14-day involuntary psychotropic medication request. Often, if the 14-day involuntary psychotropic medication administration is approved, this will trigger another hearing for 180-Day Involuntary Psychotropic Medication Administration.

The current structure of House Bill 1454 would override the authority previously given which allows us to provide involuntary psychotropic medications to severely mentally ill patients who are gravely disabled due to their mental health issues and pose a threat to themselves, others, or to property.

Thank you for your time and consideration of the information I have presented. I'm happy to answer any questions from the committee.

Testimony House Bill No. 1454 House Industry, Business and Labor Committee Representative Jonathan Warrey, Chairman

January 29, 2025

Chairman Warrey, and members of the House Industry, Business and Labor Committee, I am Sarah Aker, Executive Director of Medical Services with the Department of Health and Human Services (Department). I appear before you to provide testimony in opposition related to House Bill No. 1454.

As written, we have concerns that this bill would have significant impacts on the North Dakota Medicaid program.

In Medicaid, one of the key ways we control pharmacy costs is through the use of Step Therapy and a Preferred Drug List. Step therapy requires an individual to trial a specific medication(s) before moving to a more expensive brand name product. This allows us to direct Medicaid members to the most cost-effective medication for the state. This bill would prohibit us from using step therapy, as we are both asking individual to take and disclose their use of a specific medical product. We also use a preferred drug list to direct individuals to the most cost-effective medication for the state. In the last 4 years, the Department has saved approximately \$128 million from our pharmacy management practices. There is no database of manufacturers of medical products that have been exempted from liability for any death or serious injury caused by their medical product, so we would have no ability to implement this provision on a partial enforcement basis.

This bill would also potentially conflict with other federal regulations and areas of the Medicaid program including:

- Early, Periodic, Screening, Diagnosis and Training (EPSDT) provisions that require Medicaid programs to cover all medically necessary services for a child;
- Mandatory Medicaid benefits including laboratory and x-ray services as well as drugs delivered in hospital and physician settings;
- Value based agreements with drug manufacturers that require disclosure of the individuals who have received the drugs called out in the agreement; and
- Prescription Drug Monitoring Program (PDMP) functions that disclose use of certain medications which is required for Medicaid programs under the SUPPORT Act.

This bill would hamper our ability to operate a cost-effective Medicaid program and would directly conflict with federal regulations governing the Medicaid program.

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

Chairman Warrey and Members of the Committee:

My name is Marina Spahr, and I serve as the Director of the Medicaid Fraud Control Unit (MFCU). I am here today on behalf of the Office of the Attorney General and the MFCU to provide testimony regarding House Bill 1454. The Office of the Attorney General opposes this bill because it would unnecessarily restrict MFCU's access to records and significantly hinder our investigative authority.

Our specific objection pertains to lines 9–11 of the bill, which state:

"Notwithstanding any other provision of law, a state agency, political subdivision, or any other government entity, may not require an individual to take, receive, or disclose whether the individual has taken or received a medical product..."

MFCU relies on its investigative subpoena authority to review medical and health records, a critical component of its statutory mandate to investigate Medicaid billing fraud—including cases involving drug diversion and kickbacks—as well as instances of patient abuse and neglect in healthcare facilities. The restrictions outlined in this bill would severely impair our ability to access critical information, effectively halting investigations and compromising our statutory responsibilities under North Dakota Century Code 50-24.8.

Moreover, the broad definition of "medical product" in the bill compounds these concerns. Such a sweeping provision limiting disclosure of almost all medical records undermines patient protections, limits our ability to hold wrongdoers accountable, and removes essential tools needed to safeguard individuals in healthcare facilities. Preserving the integrity of investigations and ensuring accountability must remain a priority as this legislation is considered.

As an alternative to outright elimination of the proposed language, the Committee could consider a more narrowly tailored amendment, such as: "This section does not apply to enforcement actions under chapters 50-24.8." Incorporating this language into N.D.C.C. § 32-12.1 could help mitigate the potential impact on essential investigative and enforcement efforts.

In conclusion, the Office of the Attorney General strongly urges the Committee to remove or amend the provisions in HB 1454 that restrict access to medical records or medical product

information vital to MFCU's work. Doing so is essential to ensuring that investigations can proceed without obstruction and that ND taxpayer dollars and citizens are protected.

Thank you for your time and thoughtful consideration. I welcome any questions the Committee may have.

January 28, 2025

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Guillain-Barré syndrome associated with COVID-19: A systematic review

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ABSTRACT

With the outbreak of coronavirus disease 2019 (COVID-19), the whole world was impacted by a pandemic. With the passage of time and knowledge about the dynamics and viral propagation of this disease, the short-, mediumand long-term repercussions are still being discovered. During this period, it has been learned that various manifestations of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) can affect the nervous system. In recent months, a variety of studies and case reports have proposed an association between COVID-19 and Guillain-Barré syndrome (GBS). The present work aims to systematically review the publications available to date to verify the relationship between these two pathologies and the characteristics of post-COVID GBS. There were 156 studies included in this work, resulting in a total of 436 patients. The findings show a mean age of the patients of 61,38 years and a male majority. The GBS symptoms began on average 19 days after the onset of COVID-19 infection. Regarding GBS, the main manifestations found included generalized weakness, reflex reduction, facial paresis/paralysis and hypoesthesia. As expected, the most common result in cerebrospinal fluid (CSF) analysis was albuminocytological dissociation. A pattern of blood analysis findings common to all patients was not observed due to non-standardization of case reports. Regarding electrodiagnostic studies, acute inflammatory demyelinating polyneuropathy (AIDP) appeared as the most common subtype of GBS in this study. There have been reports, to a lesser extent, of acute motor axonal neuropathy (AMAN), acute sensorimotor axonal neuropathy (AMSAN), the pharyngeal-cervical-brachial variant (PCB), and Miller-Fisher syndrome (MFS). The GBS treatment used was mainly intravenous immunoglobulin (IVIG) and plasma exchange (PLEX). Therefore, the present study reports a high prevalence of hospitalization and intensive care units ICU admissions, conjecturing a relationship between the development of GBS and the severity of COVID-19. Despite the severity, most patients showed improvement in GBS symptoms after treatment, and their residual symptoms did not include motor involvement. Therefore, the development of GBS seems to be related to COVID-19 infection, as reported by the present systematic review.

1. Introduction

On December 31, 2019, the World Health Organization (WHO) contacted China to clarify reports that were being published regarding a group of viral pneumonias in Wuhan. These pneumonias were attributed to a novel strain of coronavirus known as SARS-CoV-2. In January 2020, the WHO stated that the spread of SARS-CoV-2 WHO was an

international public health emergency (Carvalho et al., 2021).

After the surge of COVID-19, the world underwent an unparalleled pandemic. The short-, medium- and long-term repercussions of this disease are still being discovered. An important finding was that SARS-CoV-2 operates through angiotensin-2 converting enzyme (ACE2), which is expressed in type II pneumocytes, vascular endothelium, cardiomyocytes, smooth muscle cells and enterocytes. This enzyme

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operates as a receptor for the virus to get into host cells; therefore, it is believed that the ability of SARS-CoV-2 to infect cells in vitro is dependent on the expression of ACE2 (Carvalho et al., 2021; Hamming et al., 2004).

During this period, there were several manifestations of SARS-CoV-2 regarding the nervous system. Therefore, manifestations related to the central nervous system (CNS), such as stroke, consciousness impairment, headaches and seizures and related to the peripheral nervous system (PNS), such as isolated involvement of cranial nerves and peripheral neuropathies, have emerged as possible effects of this pathology that are not yet utterly understood.

Guillain-Barré syndrome (GBS) is characterized as an immunemediated postinfectious syndrome that affects peripheral nerves and nerve roots and is estimated to affect 1.1-1.8 per 100,000 people per year (McGrogan et al., 2009). This occurs due to molecular mimicry triggered by previous infection, which results in the formation of anti-ganglioside antibodies that attack proteins present in the axonal membrane. This aggression causes rapidly progressive ascending flaccid paresis, which can affect sensory fibers and cranial nerves. GBS can be divided into the following subtypes: acute inflammatory demyelinating polyradiculoneuropathy (AIDP), acute motor axonal neuropathy (AMAN) and acute motor sensory axonal neuropathy (AMSAN), which can be distinguished through electrophysiological studies and the clinical picture (Amoretti et al., 2002). Miller-Fisher syndrome (MFS) is a rarer subtype of GBS, which presents a triad of clinical features of ophthalmoplegia, ataxia, and areflexia. This pathology, if left untreated, can progress to involvement of the cervical and ventilatory muscles, making mechanical ventilation of the patient necessary.

To date, cases of GBS after EBV (Epstein-Barr virus), *Campylobacter jejuni*, and Zika virus infection and after vaccination for polio, hepatitis B, rabies, and influenza have been described (Sejvar et al., 2011). In addition, cases of GBS after vaccination against COVID-19 have also been reported. However, there is a lack of studies on the subject, and it is not possible to draw conclusions about a significant association between vaccination for COVID-19 and GBS (Kanabar and Wilkinson, 2021).

Recently, there have been reports of patients who progressed to GBS subsequent to a COVID-19 infection. This systematic review was written with the evidence available thus far to help understand the association between COVID-19 and GBS in the adult population to provide a greater understanding of clinical symptoms for the recognition and prevention of poor outcomes and residual symptoms.

2. Methods

This systematic review was performed in consonance with the methodology stated in the Cochrane Handbook for Systematic Reviewers (Higgins and Thomas, 2019) and presented as suggested by the Preferred Reporting Items for Systematic Review and Meta-Analyses (PRISMA) (Page et al., 2021). The protocol was registered at the International Register of Prospective Systematic Reviews under identification number CRD42021292406.

2.1. Search strategy

The literature search was performed in PubMed, Scopus and Embase. The keywords used were "covid-19", "SARS-CoV-2", "2019-nCoV", "guillain barre", and "miller fisher". The search terms were used as keywords and in combination as MeSH terms to maximize the output from the literature findings.

2.2. Study selection

All the studies and data collection were performed by three authors (V.P., V.W.L., G.L.), and disagreements were resolved by consensus and involvement of a fourth, fifth and sixth author (A.M.A., N.B.E., G.Z.) or the senior author (J.C.C). We considered full texts that were designed as

a case report, case series or observational study. We restricted our search to studies published in English or Portuguese.

2.3. Eligibility criteria

Studies were included if they had data on any aspects of peripheral nervous symptoms compatible with GBS associated with COVID-19 infection. We excluded cases related to the obstetric and pediatric populations (under the age of 18), as well as cases with missing data, a nonconfirmed diagnosis of GBS and non-English/non-Portuguese articles. The design categories comprising the exclusion criteria were reviews, systematic reviews, abstracts, brief communications, letters to the editor, opinions, editorials and posters.

2.4. Data extraction

The information extracted was the following: study data (design and location); demographic data (age, sex, ethnicity, comorbidities); clinical data (showing signs and symptoms), laboratory data, nerve conduction study, treatment, disease severity (mild, hospital ward, intensive care units) and clinical outcome (death, residual symptoms, no sequelae).

3. Results

3.1. Description of the studies

In a first search, performed on May 1, 2021, a total of 1301 articles were found; after excluding duplicates and non-original papers, a total of 869 articles were used for full-text screening. Finally, only 66 studies matched the final inclusion criteria and were included in our study (total patients = 121). A second search was conducted on September 16, 2022, limiting the date to articles published from May 2021 to the date of the search. In this updating search, a total of 1722 were found; after excluding duplicates and non-original papers, a total of 1682 articles were used for full-text screening. Of these, only 90 new studies were included in the review (total patients = 315). Consequently, in total, this review includes a total of 156 studies (total patients = 436). Fig. 1 illustrates the selection process.

Among the 156 included articles, there were 118 case reports, 22 case series, 2 case-control studies, 8 prospective studies and 6 retrospective studies. To evaluate the scientific level of those studies, we used the Oxford Center for Evidence-Based Medicine Classification and the Grading of Recommendations, Assessment, Development, and Evaluations (GRADE). These data are summarized in Table 1.

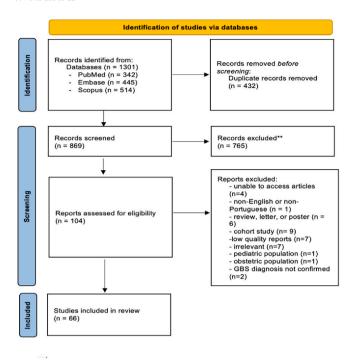
3.2. Demographic data

This study included case reports, case series, a prospective observational study and a retrospective observational study. Among the 156 articles analyzed, data referring to 436 patients with Guillain–Barré syndrome associated with COVID were found. Of these patients, 67.20% were male and 32.80% female and the mean age of included patients was 61,38 years.

3.3. Clinical findings

3.3.1. Comorbidities

Information regarding the past medical history of the 436 included patients was analyzed and the data found are described below. Among general comorbidities reported were the following pathologies: diabetes mellitus type 2 (n=50), obesity (n=31), unspecified pulmonary diseases (n=10), hypothyroidism (n=7), asthma (n=5), gastroesophageal reflux disease (n=4), chronic obstructive pulmonary disease (n=2), diabetes mellitus type 1 (n=2), osteoporosis (n=2), hiatal hernia (n=2), previous cholecystectomy (n=2), hepatitis (n=1), epistaxis (n=1), previous splenectomy (n=1), prediabetes (n=1), liver failure (n=1), previous splenectomy (n=1), prediabetes (n=1), liver failure (n=1)



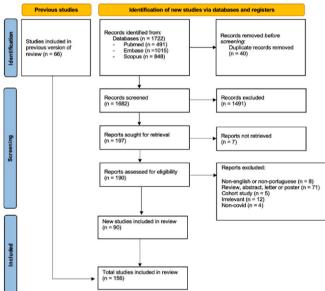


Fig. 1. - PRISMA flow diagram of evidence search and study selection.

Table 1Summary of the 156 studies, GRADE and Oxford evidence levels.

Study Type	Number of studies	GRADE evidence level	Oxford evidence level
Case report	118	Very low	4
Case series	22	Very low	4
Case control	2	Very low	4
Prospective observational study	8	Low	3
Retrospective observational study	6	Low	3

= 1) and unspecified colitis (n = 1).

Within cardiovascular comorbidities, hypertension (n=105) was the most prevalent, followed by dyslipidemia (n=8), coronary heart disease (n=3), and previous acute myocardial infarction (n=3). Atrial

fibrillation (n = 2), congestive heart failure (n = 1), aortic aneurysm (n = 1), myocardial infection (n = 1), previous carotid endarterectomy (n = 1) and unspecified cardiovascular diseases (n = 20) were also reported.

Some patients presented previous neurological diseases, including stroke (n=3), migraine (n=2), reflex sympathetic dystrophy (n=2), cervical spondylosis (n=1), herniated disc (n=1), lumbar stenosis (n=1), previous spinal trauma (n=1), strabismus (n=1), and unspecified cerebrovascular disease (n=1). Prior neuropathies were reported in 3 patients (1 Bell's palsy, 1 prior GBS and 1 diabetic polyneuropathy). Autoimmune diseases such as fibromyalgia (n=3), rheumatoid arthritis (n=2), psoriasis (n=1), Crohn's disease (n=1), and systemic lupus erythematosus (n=1) affected the patients analyzed as well.

Regarding neoplasms, the most described were breast cancer (n=4) and leukemia (n=4), followed by testicular seminoma (n=2). Other neoplasms such as lung cancer (n=1), previous thyroid cancer (n=1), and throat cancer (n=1) were present in lower numbers. At last, 3 patients were affected by unspecified malignancies.

3.3.2. Symptomatic findings related to COVID-19

Information regarding previous COVID-19 infection was reported in 365 of the evaluated patients. Among these, fever (n = 217) and cough (n = 184) were the most frequent symptoms reported in the articles during the period of COVID-19 infection, followed by dyspnea (n = 132), myalgia (n = 27), headache (n = 22) and diarrhea (n = 21). Symptoms related to special sensory fibers related to taste and olfaction were reported (64 anosmia/hyposmia; 20 dysosmia, 52 dysgeusia; 20 ageusia). The following symptoms were present: odynophagia (n = 14), fatigue (n = 11), malaise (n = 8), chills (n = 7), rhinorrhea (n = 7), asthenia (n = 7), hemodynamic disorders (n = 7), hyporexia (n = 6), chest pain (n = 5), low back pain (n = 5), sweating (n = 5), nausea (n = 5)4), vomiting (n = 4), dizziness (n = 4), nasal congestion (n = 3), expectoration (n = 3), arthralgia (n = 3), postural hypotension (n = 2), dysuria (n = 2), abdominal pain (n = 2), dysphagia (n = 1), constipation (n = 1), erectile dysfunction (n = 1), confusion (n = 1), cramps (n = 1)and not specified gastrointestinal symptoms (n = 25). Moreover, in 32 patients, the presence of unspecified respiratory symptoms was described. These data are summarized in Table 2.

3.3.3. Neurological symptoms associated with Guillain-Barré syndrome

Of the 436 cases evaluated, only 333 reported how many days after the Covid-19 infection the GBS symptoms started. The average number of days for the onset of the neurological condition in these cases was 19 days after the first symptom of Covid-19.

Among the patients evaluated, 293 had information regarding testing of the deep tendon reflexes. Of these, 260 patients had generalized hyporeflexia/areflexia, 24 patients had isolated hyporeflexia/areflexia of the lower limbs, 2 patients had isolated hyporeflexia/areflexia of the upper limbs and 8 patients had normal reflexes. Moreover, generalized hyperreflexia was observed in 1 patient, and associated Babinski sign in this patient and 2 others due to concomitant myelitis (n $\,=\,$ 2) and prior encephalitis (n $\,=\,$ 1).

Weakness was an extremely prevalent finding among the cases evaluated. Detailed information regarding motor involvement was described in 323 cases. The following patterns were found: generalized weakness, with involvement of both the lower and upper limbs (n=218); isolated weakness of the lower limbs (n=49); isolated weakness of the upper limbs (n=6); single limb weakness (n=3); hemiparesis (n=2); limb weakness of unspecified pattern (n=19) and absence of limb weakness (n=26). Associated hypotonia (n=17), cervical weakness (n=9) and trunk weakness (n=3) were also reported among these cases.

Respiratory muscle involvement was described in 79 patients of the total cases, need for intubation and mechanical ventilation was reported in 44 of these cases. Also, 54 cases reported ICU admission for unspecified causes, and it was not possible to infer whether it was due to the involvement of ventilatory muscles or other complications related to

Table 2 Clinical findings during COVID-19 infection.

Clinical Findings	Total Number (%)
COVID-19 symptoms	365 (Huang et al., 2020)
Fever	217 (59.45)
Cough	184 (50.41)
Dyspnea	132 (36.16)
Myalgia	27 (7.39)
Headache	22 (6.02)
Diarrhea	21 (5.75)
Anosmia/Hyposmia	64 (17.53)
Dysgeusia/Ageusia	72 (19.72)
Dysosmia	20 (5.47)
Odynophagia	14 (3.83)
Fatigue	11 (3.01)
Malaise	8 (2.19)
Chills	7 (1.91)
Rhinorrhea	7 (1.91)
Asthenia	7 (1.91)
Hemodynamic disorders	7 (1.91)
Hyporexia	6 (1.64)
Chest pain	5 (1.36)
Low back pain	5 (1.36)
Sweating	5 (0.36)
Nausea	4 (1.09)
Vomiting	4 (1.09)
Dizziness	4 (1.09)
Nasal congestion	3 (0.82)
Expectoration	3 (0.82)
Arthralgia	3 (0.82)
Postural hypotension	2 (0.54)
Dysuria	2 (0.54)
Abdominal pain	2 (0.54)
Dysphagia	1 (0.27)
Constipation	1 (0.27)
Erectile dysfunction	1 (0.27)
Unspecified gastrointestinal symptoms	25 (6.84)
Unspecified respiratory symptoms	32 (8.76)

hospitalization.

In reference of cranial nerves (CN), the following results were found: facial paresis/paralysis (n = 154), bulbar nerve involvement (n = 73), ophthalmoplegia (n = 52); trigeminal hypoesthesia (n = 25) and unspecified cranial nerve involvement (n = 3). In addition, the following symptoms were actively reported in the cases analyzed: diplopia (n = 16); dysphagia (n = 30); dysarthria (n = 15); ptosis (n = 8) dysphonia (n = 5) tongue deviation (n = 2); nystagmus (n = 1); tinnitus (n = 1) and vomiting (n = 1). Gait ataxia has been reported in 51 cases. Dysmetria was observed in 2 patients.

In relation to changes in sensitivity, 181 patients had hypoesthesia. Sixty-four patients reported isolated involvement of the lower limbs, among which 14 reported only distal hypoesthesia. In 62 patients, hypoesthesia with involvement of all four limbs was reported, in 27 of them it was described as glove and boot pattern, with involvement of the distal upper and lower limbs. Hypoesthesia affecting only the upper limbs was reported in only 2 patients, 1 of them with a glove pattern. Hypoesthesia with an unspecified pattern was reported in 52 cases. Paresthesia was found in 116 patients (66 cases affected all four limbs, with 30 of them described as affecting distal extremities only). Isolated lower limb paresthesia was described in 33 cases. In 5 cases only the upper limb was affected, with hand-only disposition in 4 of them. Moreover, paresthesia of unspecified disposition was described in 12 cases. Furthermore, dysesthesias (n = 14), impaired proprioception (n = 12), allodynia (n = 1) and low back pain (n = 18) were reported.

Among the autonomic manifestations, blood pressure abnormalities were a frequent finding. Among the cases analyzed, 30 patients had hypotension, 16 hypertension, 6 blood pressure instability, and 2 postural hypotension. Arrhythmias were reported in 24 cases. Urinary problems were present in 20 cases (17 urinary retention, 3 urinary incontinence) and bowel problems in 12 cases (8 fecal retention/constipation, 3 fecal incontinence, 1 diarrhea). Other abnormalities such as

gastroparesis (n = 3), sweating (n = 2), dry mouth (n = 1), erectile dysfunction (n = 1) and unspecified autonomic involvement (n = 13) were also reported.

Concomitant CNS involvement was reported in 35 cases. Among these, 11 patients had decreased level of consciousness, 8 delirium, 6 confusion, 3 myelitis, 2 headache, 2 posterior reversible encephalopathy syndrome, 1 encephalitis, 1 seizures, 1 sensory and auditory hallucinations, 1 acute infarction, 1 cerebral thrombophlebitis, 1 psychomotor agitation, 1 cerebral vasculitis, and 1 acute disseminated encephalomyelitis. These data are summarized in Table 3.

3.4. Laboratory findings

Laboratory tests for blood analysis showed cases with leukocytosis (n=8), lymphopenia (n=41), neutrophilia (n=4), thrombocytopenia (n=8) and unspecified anemia (n=2). Among the cases which the exams were available, most of them had variations in the inflammatory markers, and the exams that were most commonly altered were CRP (n

Table 3 Clinical findings related to Guillain-Barré Syndrome.

Clinical Findings	Total Number (%)
Guillain-Barré symptoms	
Reflexes Generalized hyporeflexia/areflexia Lower limb hyporeflexia/areflexia Upper limb hyporeflexia/areflexia Normoreflexia Generalized hyperreflexia Associated Babinski sign Motor impairment	293 (Huang et al., 2020) 260 (88.73) 24 (8.19) 2 (0.68) 6 (2.04) 1 (0.34) 3 (1.02) 323 (Huang et al., 2020)
Generalized weakness Lower limbs weakness Upper limbs weakness Single limb weakness Hemiparesis Absence of limb weakness Limb weakness of unspecified pattern Cervical weakness Trunk weakness	218 (67.49) 49 (15.17) 6 (1.85) 3 (0.92) 2 (0.61) 26 (8.04) 19 (5.88) 9 (2.78) 3 (0.92)
Cranial Nerve involvement Facial paresis/paralysis Bulbar nerve impairment Ophthalmoplegia Trigeminal hypoesthesia Unspecified CNs involvement	436 (Huang et al., 2020) 154 (35.32) 73 (16.74) 52 (11.92) 25 (5.73) 3 (0.68)
Sensory alterations Hypoesthesia Paresthesia Dysesthesia Proprioception disturbance Allodynia Low back pain	436 (Huang et al., 2020) 181 (41.51) 116 (26.60) 14 (3.21) 12 (2.75) 1 (0.22) 18 (4.12)
Respiratory muscle involvement Neuromuscular respiratory weakness	436 (Huang et al., 2020) 79 (18.11)
Gait disturbance Ataxia	436 (Huang et al., 2020) 51 (11.69)
Autonomic dysfunction Hypotension Hypertension Blood pressure instability Postural hypotension Arrhythmias Bladder dysfunction Bowel dysfunction Gastroparesis Sweating Dry mouth Erectile dysfunction Unspecified autonomic involvement	436 (Huang et al., 2020) 30 (6.88) 16 (3.66) 6 (1.37) 2 (0.45) 24 (5.50) 20 (4.58) 12 (2.75) 3 (0.68) 2 (0.45) 1 (0.22) 1 (0.22) 13 (2.98)

=23), d-dimers (n =9), LDH (n =9), ferritin (n =5) and CK (n =9). Only a minority had unaltered inflammatory evidence, three cases found CRP without abnormalities, and one case had CK dosage within reference values. Regarding antibodies, 44 cases reported negative antiganglioside antibodies, however these articles didn't specify which antibodies were researched. Only 7 patients presented positive of one or more anti-ganglioside antibodies. One patient had positive serology for recent Campylobacter infection, which could be a confounding factor in relation to the true etiology of GBS. More details of laboratory findings are shown in Table 4.

Regarding the cerebrospinal fluid analysis, 303 cases had detailed results. Among these cases, the most common findings were albuminocytological dissociation (n = 227) and normal CSF analysis (n = 56). We considered as normal CSF analysis the patients who had glycorrhachia levels within normal parameters and did not present albuminocytological dissociation. Furthermore, there was 1 report of a patient that was IgM + for COVID-19 in CSF and 4 reports of patients that were IgG+ and 2 reports of patients that had positive IgG anti-GQ1B in CSF. Table 5 shows CSF findings.

3.5. Guillain-Barré and its variants

Guillain Barre variants can be differentiated through electroneuromyography or clinical characteristics. In this research we found reports of 2 patients with confirmed diagnosis of GBS that had a normal electroneuromyography and 55 reports that did not specify the GBS variant after conducting an electroneuromyography study. An AIDP compatible pattern was reported in 201 cases. Axonal damage was described in 84 cases, of which 50 cases were compatible with AMAN and 34 cases with AMSAN. There were also 16 reports of patients who developed MFS, 4 reports of the pharyngeal-cervical-brachial variant (PCB).

Our research also showed some cases with overlap diagnosis between variants of GSB. There were 4 cases with an AIDP and AMSAN diagnosis, 1 case with AMSAN and MFS, 2 cases with AMAN and AMSAN, 2 cases with MFS and an unspecified GBS variant and one case with AIDP and

Table 4
Laboratory findings.

Hematology Findings	Total number	
Hemogram		
Leukopenia	6	
leukocytosis	14	
Normal leukocytes count	5	
Lymphopenia	41	
Normal lymphocytes count	3	
Neutrophilia	4	
Normal neutrophil count	1	
thrombocytopenia	8	
Normal platelet count	3	
Inflammatory tests		
Elevated CRP	23	
Normal CRP	3	
Elevated d-dimers	9	
Elevated LDH	9	
Elevated ferritin	5	
Elevated IL-6	1	
Elevated CK	9	
Normal CK	1	
Elevated lactate	1	
Antibodies Testing		
IgG + for anti-GM2	1	
IgM + for anti-GM2	1	
IgG + for anti-GD1b	4	
IgM + for anti-GD1b	1	
IgG + for anti-GQ1b	1	
Positive anti-Gal	1	
Positive unspecified Anti-ganglioside	2	
Negative unspecified Anti-ganglioside	44	

Table 5
CSF findings.

CSF Findings	Total number
Albumin-cytological dissociation	227
Normal CSF analysis	56
Elevated protein ^a	20
IgG + for covid-19	4
IgM + for covid-19	1
Positive anti-GQ1B antibodies	2

^a There were 20 cases that were considered as an isolated elevated protein because their reports didn't specify cellularity levels to consider as albumin-cytological dissociation.

AMAN.

3.6. Treatment data

Among the 436 patients with GBS or MFS, only 200 had data about their treatment for COVID, and 400 had data about their GBS/MFS treatment. The most used medication for COVID treatment was Hydroxychloroguine (n = 68); antibiotics were used in 101 patients, including azithromycin (n = 10), doxycycline (n = 5) vancomycin (n = 10) 2), amoxicillin-clavulanate (n = 1), amoxicillin (n = 1), meropenem (n = 1) = 3), tigecycline (n = 1), ciprofloxacin (n = 1), piperacillin-tazobactam (n = 1), ceftriaxone (n = 7), colistin (n = 1), cefepime (n = 1), clarithromycin (n = 3), linezolid (n = 2), and unspecified antibiotics (n = 62); corticosteroids were used in 73 patients, including dexamethasone (n = 13), methylprednisolone (n = 12), prednisone (n = 1) hydrocortisone (n = 1), and unspecified corticosteroid (n = 46); antivirals were used in 89 patients, including ritonavir/lopinavir (n = 21), remdesivir (n = 34), ritonavir (n = 1), darunavir (n = 5), oseltamivir (n = 5), favipiravir (n = 4), umifenovir (n = 1), ribavirin (n = 1), and unspecified antivirals (n = 17); anticoagulants were used in 80 cases, including enoxaparin and low molecular weight heparins (n = 16), heparin (n = 59), and unspecified anticoagulants (n = 5); other medications were also used, such as interferon beta-1b (n = 1), bamlanivimab (n = 1), tocilizumab (n = 22), acetaminophen (n = 9), meperidine (n = 2), losartan (n = 2), acetylsalicylic acid (n = 1), an unspecified vasopressor (n = 1), an unspecified antiemetic (n = 1), an unspecified antipyretic (n = 2), norepinephrine (n = 1), fluconazole (n = 2), insulin (n = 1), vitamins (n = 1)= 4), and unspecified symptomatic treatment (n = 2); one patient was treated with what was called "European Protocol", but it was not described; five patients were not treated for COVID-19. The GBS/MFS treatment used was mostly intravenous immunoglobulin (IVIG) (n = 329) and PLEX (n = 45). Methylprednisolone (n = 3), dexamethasone (n = 3) = 2), prednisone (n = 4), gabapentin (n = 3), pregabalin (n = 1), tocilizumab (n = 1), enoxaparin (n = 2), unspecified anticoagulants (n = 3), unspecified steroids (n = 2), vitamins and electrolytes (n = 3), eye drops (n = 1), diclofenac (n = 1), unspecified symptomatic treatment (n = 3)were also used, and 34 patients were not treated.

3.7. Outcome data

For the COVID outcome, the 315 patients with available data were separated into 5 groups according to the severity of their infection: asymptomatic (n = 3), mild (n = 82), hospitalized (n = 91), ICU without intubation (n = 43), and ICU with intubation (n = 85). The other 11 patients were admitted to the ICU, but no information was provided about their intubation status.

For the GBS outcome, 295 patients had data available until the end of their respective study follow-up. Of these, 41 had completely recovered, 148 had general or unspecified improvement of the symptoms, 14 had no improvement, and 27 died; 67 patients had residual muscle weakness, 11 had residual cranial nerves symptoms, 9 had residual paresthesia, 5 had residual neuropathic pain, 4 had residual sensory loss, 3 remained areflexic, and 2 had residual dysautonomic symptoms.

4. Discussion

This systematic review searched for an association between COVID-19 and GBS in the adult population and demonstrated that there is possibly a correlation between GBS and age and sex, given that the mean age of the analyzed cases was 61,38 years and most of them were men. Regarding COVID-19, the major symptoms presented were fever, cough and dyspnea, and in regard to GBS, the major signs presented were reduction or abolishment of the reflexes, generalized weakness, facial paresis/paralysis, hypoesthesia and paresthesia. There were also some relevant laboratory findings, such as variations in inflammatory markers, in most of the patients. CSF studies showed that albuminocytological dissociation was highly prevalent in the analyzed cases. For electrodiagnostic studies, most cases with available data reported AIDP as the most present variant of GBS in the study. The analysis also demonstrated that the main treatment utilized for COVID-19 infection was hydroxychloroquine and/or antibiotics, and in GBS treatment, the most common option was IVIG. Additionally, it was reported that most of the patients with available information were admitted to the ICU for COVID-19. The outcome of the GBS clinical picture was mainly positive, considering that most of the cases had an improvement in their clinical state after treatment.

4.1. Mechanisms of SARS-CoV-2 infection associated with GBS

SARS-CoV-2 has a mechanism of action based on the "key/lock"-type interaction with the angiotensin II converting enzyme (ACE2), which works like an access for the virus into the cell (Li et al., 2003). Xintian and colleagues demonstrated in 2020 that protein S in its RBD binding domain demonstrates high affinity for human ACE2, which gives it a high potential for infection by this pathway (Xu et al., 2020a). Therefore, according to Xu et al. (2020), the large presence and distribution of ACE2 in human tissues may suggest the routes of infection of SARS-CoV-2 (Xu et al., 2020b).

Upon entering the host cell, SARS-CoV-2 begins to prepare for active replication (Tay et al., 2020). With the release of new viral copies, this process causes the infected cell to suffer pyroptosis, and with it, the release of molecular patterns associated with damage occurs (DAMPs) (Tay et al., 2020). This infection process causes the death of lung cells due to the triggering of a local immune response, which starts with the sensitization of macrophages and monocytes that respond to the release of cytokines and through adaptive T and B lymphocytes. Thus, if the process is not efficient, subsequent pyroptosis causes DAMPs and PAMPs to be recognized, and thus, the inflammatory process extends. This process leads to augmented secretion of the proinflammatory cytokines IL-6, IFNγ, MCP1 and IP-10, which further recruits the immune system and thus progresses the inflammatory process (Huang et al., 2020). For this reason, this high degree of cytokine secretion in response to SARS-CoV-2 infection drives the immune system out of control, which can lead to a cytokine storm and sepsis symptoms, which are the cause of death in 28% of infected individuals (Zhang et al., 2020).

According to Yachou et al. (2020), many human viruses (including coronaviruses) have tropism and neuronal invasion properties with the potential to cause other disturbances (Yachou et al., 2020). In addition, regarding the inflammatory aspect of a cytokine storm, Yachou and colleagues also showed that neurological manifestations by COVID-19 arise from inflammatory cascades, that is, from the presence of a cytokine storm (Yachou et al., 2020).

Sedaghat and Karimi (2020) presented a case of a 65-year-old male with symmetrical quadriparesis with progressive and acute weakness of the distal lower extremities. Furthermore, the individual had bilateral facial paresis and RT-qPCR test results were positive for SARS-CoV-2 infection (Sedaghat and Karimi, 2020). Ottaviani et al. (2020) reported the case of a 66-year-old female who was in a viral endemic area and who, for a period of 72 h, had progressive difficulty to walk. In her evaluation, she presented symmetrical and progressive weakness in the

lower limbs and paraplegia, as well as distal weakness of the upper limb. Her computed tomography showed bilateral opacity with a "ground glass" appearance, but her first RT-qPCR test was negative for infection (Ottaviani et al., 2020). Nevertheless, Otmani and colleagues reported the case of a 70-year-old female in 2020 who began to experience rapid bilateral weakness and tingling in all extremities within 48 h. In her neurological examination, she demonstrated quadriplegia, hypotonia and bilateral areflexia. In three days of symptoms, she presented dry cough, dyspnea and fever that resolved spontaneously within 48 h, but her computed tomography (CT) scan showed an opaque aspect and "ground glass" findings, and her RT-qPCR test was positive for infection by SARS-CoV-2 (El Otmani et al., 2020). Based on the results, we hypothesize that episodes of SARS-CoV-2 infection and the outcome of GBS are not random. Due to the inflammatory mechanism presented by SARS-CoV-2, it actively contributes to the increase in the inflammatory response and finally to the triggering of a lack of control in the immune system, which can result in neurological illnesses linked to GBS. Fig. 2 illustrates the pathophysiology described above.

4.2. Main findings

There are still no biomarkers with good sensitivity and specificity for GBS, so its diagnosis is made through clinical history and physical examination and is assisted by additional tests such as CSF analysis and electrophysiological studies (Leonhard et al., 2019).

Electrodiagnostic studies are not essential to the diagnosis of GBS, but they are of great help, especially for patients with atypical presentations of the disease and to differentiate its subtypes. The most frequent findings in our study were reduction in conduction speed, reduction in muscle action potential amplitude and reduction/absence of sensory action potential amplitude, which is consistent with what is presented in the literature (Leonhard et al., 2019). Regarding the distribution of GBS electrophysiological variants, our analysis showed that COVID-19-associated GBS manifests prevalently with AIDP, as other studies have shown (Abu-Rumeileh et al., 2021). In addition, there were reports, although to a lesser extent, of AMAN, AMSAN, MFS and PCB.

Regarding CSF analysis, our study showed that findings in patients diagnosed with GBS and COVID-19 were similar to findings in non-COVID-19 patients. Our main findings were increased protein with normal cellularity. It is known that an association of increased protein and normal cellularity (determining albuminocytological dissociation) in CSF is a trait of GBS; yet, its isolated presence does not confirm the diagnosis of GBS (van den Berg et al., 2014).

Regarding the analysis of blood samples, our study did not observe a pattern that was common to all patients. Blood count and platelet count results included leukopenia, leukocytosis, lymphopenia, neutrophilia, thrombocytopenia, and normal cell count. Concerning inflammatory tests, most patients had at least one of them that was abnormal, whether CRP, d-dimers, LDH, ferritin or CK. However, there was a minority of cases where inflammatory evidence was within the normal range. This lack of a pattern in the biochemical analysis is common in patients with GBS, as other studies have shown (Abu-Rumeileh et al., 2021; Caress et al., 2020).

Furthermore, most cases were negative for anti-ganglioside antibody testing, and only 7 of our cases tested positive for at least one type of serum anti-ganglioside antibody, the most frequent being anti-GD1b IgG (n = 4). Antibody testing can be useful to support a diagnosis. However, it is a test that has limitations because, even if negative, GBS cannot be excluded as a diagnosis and, if positive, it does not confirm the diagnosis of GBS, since anti-ganglioside antibodies can occur in other pathologies. Nevertheless, the presence of anti-GQ1B antibodies appears in up to 90% of patients with MFS. However, in our analysis of the 16 reported cases of MFS, only 2 of them had anti-GQ1B antibody, which represents 12,5% of the MFS reported cases. This may suggest that the development of MFS in COVID and non-COVID patients has different mechanisms, but further studies are needed to prove this hypothesis (Leonhard et al.,

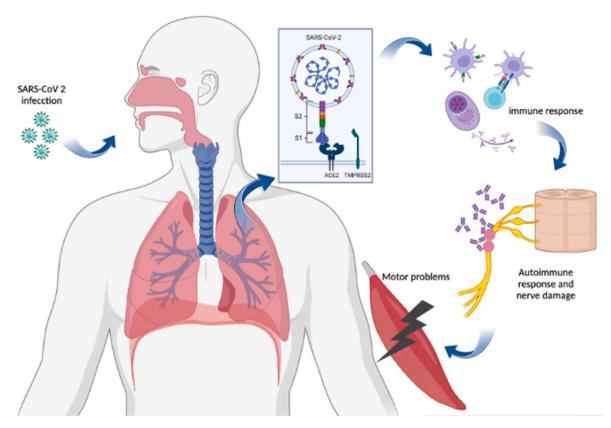


Fig. 2. Mechanisms of SARS-CoV-2 infection in GBS.

2019; Abu-Rumeileh et al., 2021; van den Berg et al., 2014).

4.3. Clinical features of GBS post-COVID-19

The clinical characteristics of Guillain–Barré after COVID-19 are, in general, similar to those presented by patients who developed this syndrome due to other causes. In this context, the analyzed patients presented decreased strength, predominantly distal, of the limbs with ascending evolution, in addition to paresthesia, tactile and painful hypoesthesia, hyporeflexia or areflexia and cranial nerve alterations (Jasti et al., 2016).

The clinical analysis of the patient, consisting of the search for symptoms through anamnesis added to the detection of signs by physical examination, is the basis of the Guillain-Barré diagnosis. The diagnosis of this pathology is established on criteria proposed by the US National Institute of Neurological Disorders and Stroke (NINDS), which defines the findings as mandatory, strongly associated with the disease and, finally, those that should cause diagnostic doubt when present. The mandatory characteristics for the diagnosis to be made are progressive weakness of the limbs, accompanied by decreased reflexes in the affected limb. Factors supporting the diagnosis involve a progression of up to four weeks, symmetry of motor and sensory deficit, mild sensory involvement, involvement of the cranial nerves (principally VII), onset of recovery four weeks from the stopping of progression, autonomic dysfunction, absence of fever at onset, albuminocytological dissociation in CSF, and slow or blocked nerve conduction for several weeks on electroneuromyography. Among the factors that call into question the diagnosis is a marked asymmetric weakness, initial or persistent visual and/or intestinal dysfunction, high lymphocyte count in CSF and welldemarcated sensory level. Isolated sensory involvement or explanation of the better condition by another neuropathy exclude the diagnosis (van Doorn, 2013).

In our study, the most frequent symptom was limb weakness, which was reported in 297 patients, and the most frequent sign was the

reduction or abolition of reflexes, which was present in 286 patients. Sensory alterations were also a highly prevalent finding, especially hypoesthesia. Cranial nerve involvement was also found on neurological examination of the patients evaluated. Corroborating the findings already present in the literature, the facial nerve (VII) was the main affected CN, followed by the bulbar nerves, the III, IV and VI pairs involved in ocular motricity and the V pair. The remaining cranial pairs were affected less frequently.

4.4. Relation of GBS variants and other viral diseases

Typical Guillain-Barré syndrome is an acute-onset ascending sensorimotor neuropathy that presents with distal paresthesia or sensory loss, with or followed by muscle weakness that starts in the legs, progressing to the arms and cranial muscles. Reflexes are often decreased or absent at first presentation, and, at nadir, it is present in nearly all patients. However, the disease can have an atypical onset or show as a clinical variant. Variants are defined by the involvement of different sorts of nerve fiber (motor, sensory, motor and sensory, cranial or autonomic), by the nature of the injury (axonal or demyelinating), and by the changes in consciousness. The GBS variants commonly present features from the classic syndrome or show typical aspects from another variant. The most common variant, AIDP, characterized by sensorimotor GBS, is frequently seen combined with autonomic dysfunction and cranial nerve impairment. The AMAN variant presents pure motor GBS, and rarely affects cranial nerves. The AMSAN variant resembles severe AMAN; however, sensory fibers are affected. MFS is a less common variant defined by a triad of clinical features of ophthalmoplegia, ataxia and areflexia. PCB is a rare motor variant that manifests with weakness of the pharyngeal, cervical, and brachial muscles without lower limb weakness (Leonhard et al., 2019; Dimachkie and Barohn, 2013).

Research shows that 2/3 of patients present respiratory or gastrointestinal tract infection symptoms previous to the onset of GBS. The most common pathogens related to GBS are *C. jejuni*, cytomegalovirus, Epstein–Barr virus, *Mycoplasma pneumoniae*, Zika virus, *Haemophilus influenzae* and influenza A. The most recurring pathogen found prior to GBS development is *C. jejuni*, and it is predominantly related to the AMAN subtype of GBS, yet it is also seen in other variants. On the other hand, our study and other reviews on GBS and COVID-19 have shown that the most common type in COVID-19 patients is the AIDP variant (Leonhard et al., 2019).

During the outbreaks of infectious diseases that trigger GBS, the syndrome can become more prevalent in the population. An example of that was the Zika virus outbreak in French Polynesia, Latin America and the Caribbean between 2013 and 2016. During this period, there was an increase in individuals diagnosed with GBS (Leonhard et al., 2019; van den Berg et al., 2014; Sriwastava et al., 2021). Nonetheless, it has not been proven that there has been an increase in GBS cases after the SARS-CoV-2 pandemic, as occurred in the Zika virus pandemic. In a study conducted across the UK, it was stated that, during the first wave of COVID-19, there was no increased incidence of GBS; thus, COVID-19 couldn't be associated as a cause of GBS in this population. Therefore, more studies are needed to confirm or deny the correlation between COVID-19 and GBS (Keddie et al., 2021).

Studies have shown that there is some evidence to support the hypothesis of the association between GBS and most vaccines as its triggers. An exception was the vaccine for swine influenza used in 1976–77 and older rabies vaccines (Haber et al., 2009). Increases in GBS related to modern influenza vaccines has not been of great prevalence, many robust studies agree in an increase of about one case of GBS per million vaccinations (Lunn et al., 2021). Thus far, there have been reported cases of GBS after a COVID vaccine (Pfizer, Johnson & Johnson, Janssen, AstraZeneca). However, if millions of individuals have been vaccinated and GBS was rarely reported, this does not presuppose a solid connection between COVID-19 vaccines and GBS. Therefore, more research is needed to fully understand the pathogenesis behind GBS following vaccination and to estimate the prevalence of GBS as a possible side effect (Kanabar and Wilkinson, 2021).

4.5. Diagnosis and management of GBS

The diagnosis of GBS is initially clinical, based on the presentation of acute progressive and mainly symmetric muscle weakness and the absence or reduction of deep tendon reflexes (Fokke et al., 2014). The clinical diagnosis is accompanied by a CSF study in every patient (Willison et al., 2016). In our study, 297 patients had some level of motor limb impairment, representing approximately 92% of the patients who had the strength analysis described. The reflexes, in turn, were reduced or absent in 97.6% of the post-COVID-19 GBS patients in whom they were tested. Currently, the diagnosis of GBS usually follows the criteria proposed in 1978 by the National Institute of Neurological Disorders and Stroke (NINDS) with a reaffirmation of these criteria in 1990 (Criteria for diagnosis of Guillain, 1978; Asbury and Cornblath, 1990). Moreover, the complete diagnosis of GBS is supported by a CSF study presenting albuminocytological dissociation, which helps exclude other causes of the patient's clinical presentation (Asbury and Cornblath, 1990). In our analysis, 303 patients had detailed results of their CSF studies, with 227 of them showing albuminocytological dissociation. Furthermore, the GBS diagnosis is also reinforced by electrodiagnostic studies of nerve conduction studies (NCS) and electromyography (EMG), which help evaluate the prognosis of the syndrome and differentiate its subtypes (Asbury and Cornblath, 1990). Other tests are also helpful for GBS diagnosis, such as laboratory testing, antibody testing and diagnostic imaging (Kaida et al., 2008; Ogawara et al., 2000; Byun et al., 1998).

The management of GBS is focused mainly on immunotherapy with IVIG or PLEX, with IVIG being more commonly used because of its easier administration and better acceptance from the patient (Hughes et al., 2014; Chevret et al., 2017). Our study showed that from 400 cases with information about their treatment, 329 patients were treated with IVIG and 45 with PLEX. Eleven patients were also treated with

glucocorticoids, even though this is not recommended considering that there is no evidence of their benefit to the clinical picture of GBS (Hughes et al., 2016).

This study reported a high prevalence of hospitalization (n=91) and ICU admissions (n=139) among the cases with available data, conjecturing a relationship between the development of GBS and COVID-19 severity.

4.6. Outcomes

In regard to GBS outcome, most patients with available information had an improvement after treatment in most of their residual symptoms not including motor involvement. However, 27 patients died during the treatment.

4.7. Strengths and limitations

The present work is a systematic review that groups together the available literature on the themes of GBS and SARS-CoV-2. Here, the extreme importance of the work was shown by making a compilation of the literature and highlighting the relationship between GBS and viral infection. Based on the search on different platforms, this resulted in a large number of studies (n = 3023), of which after the initial filtering, a significant number of articles reporting common characteristics remained (n = 156). From there, similar characteristics were listed and relevant characteristics about the indicated relationship were analyzed based on preestablished criteria. For this reason, this systematic review demonstrates the rigor with which it was constructed, following the precepts of excellence proposed for a systematic review. As for strengths, we listed the pooling and filtering criteria of the range of proposed studies on the relationship and findings between SARS-CoV-2 and GBS infection. The compilation of studies provided a rigorous view and better inferential potential about the findings. The systematic review provided visualization and an increase in evidence about the aforementioned relationship. Regarding the limitations, the literature presented itself in a distorted way with different types of articles, and based on case reports, large compilation studies were few, which led us to view it as a new description. In our work, we emphasized the importance of an enhanced understanding of the aspects related to the association of the diseases in question, but we recognize that carrying out larger epidemiological studies can contribute to a greater amount of evidence.

5. Conclusion

Our study presented a collection of literature related to the link between GBS and SARS-CoV-2 infection. A significant number of studies reported common characteristics between these two conditions. Here, we demonstrated that there is possibly an interrelationship between GBS, age and sex by showing that the mean age of the patients was 61,38 years and that most were male. In addition, we highlighted the major related symptoms for GBS and COVID-19. Regarding GBS, the main manifestations included generalized weakness, reflex reduction, facial paresis/paralysis, hypoesthesia and paresthesia. As expected, the most common feature in CSF analysis was albuminocytological dissociation. Regarding electrodiagnostic results, AIDP was the most frequent subtype of GBS in the present study. The present study reported a high prevalence of hospitalizations and ICU admissions, conjecturing a correlation between the development of GBS and the severity of COVID-19. The results presented in this systematic review can serve as the basis for studies on the influence of SARS-CoV-2 infection on the peripheral nervous system and can be used in clinical practice to assist the medical team in describing clinical GBS findings in patients with COVID-19 manifestations. Recent COVID-19 variants, such as Omicron, whose consequences are still unknown, are occurring worldwide. Thus, in the present scenario, more studies are necessary to investigate the possible permanent neurological impacts due to SARS-CoV-2 infection.

Ethics approval and consent to participate

Not applicable.

Consent for publication

Not applicable.

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Availability of data and materials

The data that support the findings of this study are available from the corresponding author on request.

Authors' contributions

V.P. and G.Z. designed the manuscript. V.P., V.W.L., G.L.C. and A.M. A. performed the literature search and wrote the original draft. D.R.M., N.B.E. and G.Z. critically revised the manuscript. J.C.C. designed, critically revised, and supervised the study. All authors approved the final version of the manuscript.

Declaration of competing interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

Data availability

Data will be made available on request.

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List of abbreviations

COVID-19 Coronavirus disease 2019

SARS-CoV-2 Severe Acute Respiratory Syndrome Coronavirus 2

GBS Guillain–Barré Syndrome CSF Cerebrospinal Fluid

AIDP Acute Inflammatory Demyelinating Polyneuropathy

AMAN Acute Motor Axonal Neuropathy

AMSAN Acute Sensorimotor Axonal Neuropathy

MFS Miller-Fisher Syndrome IVIG Intravenous Immunoglobulin

PLEX Plasma Exchange

WHO World Health Organization
ACE2 Angiotensin-2 Converting Enzyme

CNS Central Nervous System
PNS Peripheral Nervous System
EBV Epstein-Barr Virus

PRISMA Preferred Reporting Items for Systematic Review and Meta-

Analyses

ICU Intensive Care Units

GRADE Grading of Recommendations, Assessment, Development, and

Evaluations

DM2 Type 2 Diabetes mellitus

GERD Gastroesophageal Reflux Disease SAH Systemic Arterial Hypertension

CN Cranial Nerve
CRP C-Reactive Protein
CK Creatine Kinase

DAMPs Molecular Patterns Associated with Damage

CT Computed Tomography

NINDS National Institute of Neurological Disorders and Stroke

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Mr Chairman and Members of the Committe,

I am testifying in favor of HB 1454

My middle child had a seizure after receiving her 4 month childhood vaccines. She also developed a case of eczema that was so severe that that the only parts of her face that you could see were the tip of her nose and her lips. The rest of her face looked like one giant red welt. Imagine the horror a mother would experience seeing her tiny baby like that, and worse, watching her turn grey and become unresponsive after receiving her vaccines. Fortunately, she never had another seizure, but she suffered from severe eczema for most of her childhood.

By the way, eczema is one of the most common adverse events listed on vaccine inserts and on VAERS (Vaccine Adverse Events Reporting System) which was instituted after the 1986 Act of Congress granted vaccine manufacturers complete immunity for their products. They knew then, and still know the risks that vaccines pose. But most parents, and people in general don't know the risks, because patients do not receive package inserts before agreeing vaccinations.

VAERS was put into place because vaccine manufacturers pressured the U.S. government to grant them full immunity from liability because they are being sued over and over again by peiole injured by vaccines. They threatened the government that they would have to stop producing vaccines. VAERS was presented to the public as a sure-fire means of being compensated if they, or their child, was injured by a vaccine, and the many, many known adverse reactions caused by vaccines were compiled on the VAERS reporting site. Sadly, most doctors don't report adverse reactions and most patients who do are denied compensation or given extremely small awards.

The existence of VAERS is proof enough that vaccine manufacturers are fully aware of the risks their products pose. But they benefit from complete immunity.

My first baby developed a milk allergy immediately after receiving her two month childhood vaccines. At the time I didn't make the connection, but studying vaccine adverse reactions lead me to understand that vaccines can and often do cause allergies. (Aleergies are listed as possible adverse reactions on vaccine inserts and VAERS).

My two great-nephews suffered extremely severe vaccine injuries. The younger one stopped walking and talking (he already had an impressive vocabulary for a one-year-old) and became catatonic immediaty after his 12-month vaccines. He was hospitalized and an MRI showed brain swelling, which also is listed in vaccine inserts and on VAERS as a possible vaccine adverse events.

My eldest great-nephew developed an eye tick after a round of childhood vaccines. (I'm not sure of his age at the time, but he was around pre-school age). Doctors said the eye tic was nothing to worry about, but over time he developed extreme phobias that were so severe and debilitating that he could no longer sleep alone, go to pre-school, or participate in any group activities, due to severe anxiety. He had to be by his mother's side 24 hours per day. He began struggling with writing and math which he had previously been performing at an a very advanced level. Prior to these vaccines, he was a joyful, highly intelligent, academically advanced, independent, confident little boy. It took years to get an answer as to what was destroying this little boy's life. Genetic testing showed that the Prevnar vaccine had replicated hundreds of times in his blood stream and caused a condition called PANDAS - Pediatric Autoimmune Neuro-psychiatric Disease Associated with Streptococcal infections. A very simplified explanation of this condition is that PANDAS (which is an auto-immune disease) causes the body to overreact to strept bacteria so that anytime the child is exposed to strept, their body produces anti-bodies which instead of attacking the bacteria, attack the brain causing anxiety, phobias, depression, learning difficulties, etc. Not surprisingly, Autoimmune Diseases, and PANDAS are listed on vaccine package inserts are possible adverse events.

Vaccine manufacturers know that many adverse reactions to their products exist. But they are 100% immune to liability. Should any human being be forced or coerced to receive a medical product injected into their body which the manufacturer admits presents known risks (VAERS, and packags inserts), and for which there is absolutely no liability?

If I eat at a restaurant and get food poisoning which results in hospitalization and medical bills, I can sue that restaurant,

and the restaurant could be shut down until they can ensure customer safety. If I buy a product at Walmart and I am I injured by it, I can sue the manufacturer, and the product could be removed from the shelves. If my car catches fire due to a faulty part, I can sue the company that made that part or built that car, and there would likely be a recall.

We see recalls for countless products in the United States. Companies don't want to be sued. But we don't see vaccine recalls no matter how often or how severe adverse reactions ocurr. Why? Because vaccine manufacturers have absolutely no liability for their products!

One last story - my fiance developed a horrifying disease that causes paralysis and put him on a ventilator shortly after receiving a covid shot. The disease is called Guillain Barre Syndrome. And you guessed it, GBS is listed on many vaccine inserts and on VAERS as a possible vaccine injury. And most recently, a study of 1 million people proved that GBS is a possible adverse reaction to the covid vaccine. Fortunately, my fiance recovered up to about 80% of his normal function. Sadly, many remain paralyzed and some die.

No citizen of North Dakota should be pressured, or forced by any government entity (schools, employers, agencies, etc) to submit themselves to any medical product produced by any manufacturer that is immune to liability, because there simply is no incentive for these manufactures to ensure that their products are safe.

I feel confident when I drive off a car lot that my new car won't kill me because I know there are checks and balances to ensure that cars are safe to drive. I do not feel confident receiving any vaccine because I know that vaccine manufactures do not have any incentive to ensure the safety of their product.

Please do pass HB 1454. We, the people, should have the right to not receive medical products into our bodies that are not required to be held to the same liability standards as a curling iron, a taco bell meal, a children's toy, or an SUV.

Thank you.

HB1454

Industry, Business and Labor Committee

January 28, 2025

Jessica Doty, UND Director of Student Health Services

Dr. Marjorie Jenkins, UND VP for Health Affairs & Dean of the School of Medicine and Health Sciences

Dr. Maridee Shogren, UND Dean of the School of Nursing and Professional Disciplines

Chair Warrey and Committee Members:

This statement is written in collaboration between Jessica Doty, Director of Student Health Services, Dr. Marjorie Jenkins, Dean of the School of Medicine and Health Sciences and Dr. Maridee Shogren, Dean of the College of Nursing and Professional Disciples at the University of North Dakota. We are writing to oppose HB1454 as this bill would eliminate the ability to require documentation of vaccinations for college students. This challenges community or herd immunity on our vibrant college campuses, an environment where students learn, live, and play in close nature daily.

UND brings students from across the state, nation and world to create a diverse learning experience and make up over 15,000 students. Documentation of vaccination requirements protect our campus from highly contagious vaccine-preventable disease occurrences, as well as promote a quick public health response to protect other community members in case of an infection through the tracking and quick identification of students' immunization status in case of an outbreak of a communicable and vaccine-preventable disease on campus. In addition, UND is educating healthcare students who are caring for people who are already ill, hospitalized or immunocompromised, and have increased susceptibility to communicable diseases. This further increases the importance of vaccine requirements for our students. Exemptions to the vaccine requirement are available to students without explaining their reason for the objection

To highlight the rapid transmission that could occur on a campus consider this example. Measles is spread through the air and 9 out of 10 non-immune people in contact with someone infected with measles can become ill. Measles hangs in the air for up to 2 hours (<u>cdc.gov/measles</u>).

Attending class and internships in the community, living with roommates, cheering for athletic teams, and working in clinical rotations for health sciences are all common college student behaviors. Imagine how quickly measles could spread in a dorm, college classroom, or sporting event. Being able to identify vulnerable students who may be exposed to vaccine-preventable disease is a critical reason to require vaccination records be submitted on college campuses.

Prior to 2000, measles had been declared eliminated in the United States because of strong herd immunity through the effective measles, mumps, and rubella (MMR) vaccine. At the end of 2024, the CDC reports 32 jurisdictions in the United States have experienced a measles case with

16 outbreaks. This is an increase from 4 outbreaks reports in the United States in 2023. With the increasing risk of a highly contagious disease, eliminating the ability to require vaccinations opens our university community and state of North Dakota to threat of an outbreak.

The elimination of immunization requirements would impact the learning and living of university students and adversely affect the mission of our university populations and vulnerable citizens.

We respectfully request a Do Not Pass on HB1454.

Testimony in Support HB 1454

IBL Committee and Chair Warrey,

I'm writing in support of HB1454.

The very words of former NIAH Director, Dr. Anthony Fauci indicate the very need to put these tenants into law,

"It's been proven that when you make it difficult for people in their lives, they lose their ideological bull\$(!+ and they get vaccinated."

For the last 5 years (and prior for other vaccine injuries), vaccine injuries have been ignored, downplayed, and the people injured have been left to their own. Many people including military personelle, workers, and government employees were coerced with the threat of unemployment. To their detriment.

So much so that our own Attorney General, along with 13 other Attorney Generals have demanded the government answer for their complicit actions.

https://www.sirillp.com/wp-content/uploads/2025/01/2024-12-30-Letter-re-Covid-Injury-Claims-under-CICP-7127ec397b54d5a3e2c7808570eaa2a5.pdf

Those choosing to avoid the experimental biologic, including myself, have been prejudiced against, for completely invalid reasoning. And our reasons for avoiding it are now fully validated. Lack of efficacy. The potential for REAL injury were always the concerns, but the government and media falsified safety and efficacy to push the biologic onto the American people.

If we can't stop the outright misrepresentation of risk vs benefits by government entities including the CDC and FDA, we must preserve the right to simply keep those decisions private and protect against the coercion and forced compliance that has been happening for decades.

As a small example, I'd like to enter a recent study that reveals striking problems with the childhood vaccine schedule that the CDC and FDA have denied repeatedly, even though they have had to admit that placebo controlled studies are EXTREMELY lacking in the realm of vaccine research, and there has been very little in the realm of studying the full schedule for its safety profile.

The analysis of claims data for 47,155 nine-year-old children revealed that:

- 1) Vaccination was associated with significantly increased odds for all measured Neurodevelopmental Disorders (NDD): 212% more likely;
- 2) Among children born preterm and vaccinated, 39.9% were diagnosed with at least one NDD compared to 15.7% among those born preterm and unvaccinated (OR 3.58, 95% CI: 2.80, 4.57); Comparison of Vaccinated vs Unvaccinated:
- 3. Autism Spectrum Disorder (ASD): 170% higher odds in vaccinated
- 4. Epilepsy/Seizures: 180% higher odds

5. Learning disorders: 312% higher6. Encephalopathy: 420% higher7. Tic Disorders: 530% higher

Association between number of vaccinations visits and Autism:

1 Vaccination visit vs none: 70% higher risk
1-4 vaccination visits vs None: 90% higher risk

5 or more vs none: 170% higher risk
11 or more vs none: 340% higher risk
11 or more vs 1 visit: 180% higher risk

Conclusions: These results suggest that the current vaccination schedule may be contributing to multiple forms of NDD; that vaccination coupled with preterm birth was strongly associated with increased odds of NDDs compared to preterm birth in the absence of vaccination; and increasing numbers of visits that included vaccinations were associated with increased risks of ASD.

https://publichealthpolicyjournal.com/vaccination-and-neurodevelopmental-disorders-a-study-of-nine-year-old-children-enrolled-in-medicaid/

If there were a medication that could do what simply avoiding inoculation does for the health of a developing brain, it would be the most sought after drug on the planet.

Thank you for your time.

Dr. Steve Nagel, DC

180 Health Solutions

House Industry, Business, and Labor Committee Representative Jonathan Warrey, CHAIR January 29, 2025

Chair Warrey and members of the House Industry, Business, and Labor Committee, my name is Lisa Pulkrabek, I live a few miles outside of Mandan in District 31. I am writing to you today asking for your support of HB 1454 - Relating to the medical liability of a government entity. Please pass this bill through your committee.

As far as I understand, this bill mainly affects vaccines, immunizations and biologics because the manufacturers of all other medical drugs, treatments and devices already can be held liable for death or injury the product may cause. Furthermore, beyond recent covid vaccines, I know of no drugs, interventions or medical devices that anyone is forced to take without their consent.

Back in 1986 the US Congress and President Reagan gave vaccine manufacturers immunity from being held liable for injuries and death that their vaccines caused. This was called: The National Childhood Vaccine Injury Act (NCVIA). Under the NCVIA, the National Vaccine Injury Compensation Program (NVICP) was created to provide a federal no-fault system for compensating vaccine-related injuries or death which effectively gave manufacturers open doors to create products that they didn't have to do rigorous testing on and didn't have to pay out for in court if a consumer sued them. (Up to this point, they were being sued for many millions of dollars each year and were at risk of losing their companies.) Under NCVIP they knew that the government would cover their backs and pay money to victims and their families! Well the NVICP has basically been a kangaroo court for nearly the last 40 years. It takes years to get a hearing before a judge and payouts are few and far between and usually only award a fraction of the money needed to restore the injured parties back to health - if that is even possible for them.

However, for the most part for the last 40 years, we as consumers have had the right to accept/purchase/take/give to ourselves and our children these vaccines if we chose to do so. Many American parents just blindly trust and accept whatever advice and guidance their personal doctors, the CDC, AMA, AAP, WHO, NIH and the rest of the governmental health agencies give them. They bring themselves and their children in for all the recommended immunizations. They get the shots and go on their way - many seemingly unharmed. But there are kids and adults who have severe adverse reactions to vaccines. In the case of this, the patient and the doctor's office or clinic that administered the vaccine should report the reaction to the Vaccine Adverse Event Reporting System (VAERS). Many clinic and hospital staff are not trained on the correct protocols on how and where to report. Still even if reported, that is not a lawsuit through NVICP, that must be done separately. Again, people have had the choice to take these medical interventions.

Fast forward to 2020 and the last four tumultuous years. As you should be aware, the US military, government agencies, schools, colleges and even private employers were forcing their students and employees to take the UNTESTED covid vaccine. This was in fact "forced" because the only other choice that many people had was to leave the job or school. The covid vaccine was not covered under the already over stressed NVICP system. Anyone who had an adverse reaction (For example: myocarditis, heart attack, stroke and many other things..... DEATH) well they were just plain out of luck.

So manufacturers aren't liable, the NVICP is a joke and doesn't cover covid vaccines - it only covers childhood vaccines, you are forced to take the untested product and you have a chance of serious illness, debilitating injury or death. Does that sound fair to you? Does it sound safe? Does it sound healthy? Does it sound like bodily autonomy? North Dakotans deserve better.

Now Trump is hoping to invest \$500B of our tax dollars into an AI company to create another vaccine for cancer of all things. This is going to be another disaster. I will not take that dangerous, untested shot either. But I digress. Vaccine companies are always cooking up the next immunization -these new ones mRNA, this is very detrimental to our bodies. How do we know and trust that the next vaccines down the line will be safe? We just have to take anything they throw out at us with no choices?

Enter HB 1454 - We want bodily autonomy. No person should ever be forced, coerced, guilted, bribed or incentivized into getting a medical treatment, medication, biologic, drug, vaccine or anything. We deserve to have the full, honest facts about the risks and benefits and then we can make an informed decision. If we know that the manufacturers have liability, then we can trust that they have done everything possible to ensure that their product is the safest it can possibly be. We can be certain that they stand behind their product and if we or our loved one is forced to take a vaccine to keep a job, or stay in school, and if they become injured or sick there is proper recourse!

Without liability, there can be no mandate! There can be no mandatory products without the manufacturers being liable for injury, harm or death.

Again I urge you to pass HB 1454 so that North Dakotans can continue to have the freedom to choose their injections or recourse if they are forced to take one. No governmental agency has the right to mandate such risky treatments.

Thanks for your time and consideration.

Lisa Pulkrabek



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HB 1454 Testimony of Amy De Kok House Industry, Business, & Labor Committee January 29, 2025

Chairman Warrey and members of the House IBL Committee, thank you for the opportunity to provide testimony in connection with HB 1454. My name is Amy De Kok, and I serve as the executive director for the North Dakota School Boards Association. I am here today to express deep concerns about the unintended consequences of this legislation on public health, the operations of school districts, and the well-being of students and staff.

Current Law and Public Health Standards

Under North Dakota law, school districts are required to ensure that students meet immunization requirements as a condition of attendance, with exemptions allowed for medical, religious and philosophical reasons. These requirements are critical to maintaining safe and healthy learning environments by preventing outbreaks of vaccine-preventable diseases such as measles, mumps, and whooping cough.

Immunization policies protect not only those who are vaccinated but also vulnerable populations, such as children who cannot be vaccinated for medical reasons and individuals with weakened immune systems. By ensuring high vaccination rates, school districts can fulfill their duty to provide a safe environment for all students and staff.

Impacts of HB 1454 on School District Immunization Policies

HB 1454 would likely prevent school districts, as political subdivisions of the state, from requiring individuals to disclose or provide proof of receiving medical products, including vaccinations, unless the manufacturer assumes liability for adverse effects. This restriction raises several concerns:

1. Erosion of Public Health Protections:

Immunization requirements are a cornerstone of public health and safety. Without the ability to require proof of vaccination, schools would face increased risks of disease outbreaks, which could disrupt education, endanger lives, and strain public health resources.

2. Legal Uncertainty:

The liability provision in HB 1454 imposes an unreasonable burden by tying immunization mandates to manufacturer liability—an issue over which school districts and public health officials have no control. Vaccine manufacturers' liability protections, governed by federal law, cannot realistically be altered by school districts or the State of North Dakota.

3. Risk to Vulnerable Populations:

 Students and staff with health conditions that make them more susceptible to severe outcomes from infectious diseases would face increased exposure risks in the absence of immunization policies.

4. Operational Challenges for Schools:

Schools may be unable to enforce existing immunization laws effectively, creating legal confusion and administrative challenges. Moreover, school closures due to disease outbreaks could result in significant disruptions to education and added costs for families and communities.

Broader Public Health Consequences

By prohibiting political subdivisions, including school districts, from requiring proof of immunization, this bill undermines established public health practices and weakens the state's ability to respond to communicable disease threats. Immunization mandates are not arbitrary; they are evidence-based measures that have successfully reduced the prevalence of life-threatening diseases for decades.

While respecting individual rights is important, HB 1454 tips the balance too far, jeopardizing the collective health and safety of our communities, particularly within schools. I urge the committee to reject this bill to preserve the integrity of North Dakota's public health framework and ensure that school districts can continue protecting the well-being of students and staff.

Thank you for your time and consideration. I am happy to answer any questions or provide additional information.

HB 1454 Testimony Industry, Business and Labor Committee January 29, 2025 10 a.m.

Good morning, Chairman Warrey and members of the Industry, Business and Labor Committee. My name is Kylie Hall, and I live in District 45 in North Fargo. I am writing to state my opposition to this bill. I have a Master's Degree in Public Health and have worked at the North Dakota State University Center for Immunization Research and Education for the past 9 and 1/2 years. I would like to make clear that my comments today are not on behalf of NDSU.

As written, House Bill 1454 would not allow any state agencies, political subdivisions or government entities to require any vaccinations or require someone to disclose their vaccination status. This is because vaccine manufacturers are not liable for injuries caused by their products.

Questions about vaccine manufacturer liability come up regularly in my work. I understand how hearing that vaccine manufacturers are not liable for injury caused by their products would seem concerning, but I would like to offer some perspective that I hope will help alleviate your concerns.

The National Vaccine Injury Compensation Program (NVICP)

This true story starts in the 1970s. At the time, there were vaccines against smallpox, measles, mumps, rubella, polio, diphtheria, tetanus and pertussis. The DPT (diphtheria, pertussis, and tetanus) vaccine was known to be very reactogenic, which means it caused a lot of side effects. It wasn't uncommon for vaccine recipients to have injection site reactions, high fevers, and some even had febrile seizures and whole-limb swelling. These short-term side effects did not cause any long-term problems, but public concerns about the vaccine were growing. Some thought the vaccine caused brain injuries (further studies showed no association), and a TV documentary blamed the vaccine on intellectual and physical disabilities.

Through the 1970s and 1980s, many lawsuits were filed against vaccine manufacturers. Manufacturers made large payouts to those claiming vaccine injury, many of them tied to the DPT vaccine. More and more lawsuits were filed, and they became more expensive. In 1985, vaccine manufacturers knew that a successful vaccine could prevent hundreds of thousands of cases of a deadly disease, but it could also cause a few rare side effects that would lead to multimillion-dollar lawsuits...even in the absence of scientific evidence. The vaccine manufacturers struggled to obtain liability insurance. Vaccines had low profit margins, so manufacturers began to withdraw their DPT vaccines from the market. In the end, only one vaccine manufacturer was still making DPT. Vaccine prices soared, so providers limited their purchases. Experts saw the writing on the wall – if this continued, there would be a limited supply of vaccines to prevent infectious diseases and vaccine-preventable diseases would return. Additionally, the development of new vaccines would be halted by pharmaceutical companies because the risk was too high.

The United States government stepped in. Congress passed, and President Ronald Reagan signed, the National Childhood Vaccine Injury Act – it was meant to 1) eliminate the potential

financial liability of vaccine manufacturers due to vaccine injury claims, 2) help ensure a stable supply of vaccines, 3) stabilize vaccine costs, and 4) provide cost-effective arbitration for vaccine injury claims.

This act created the National Vaccine Injury Compensation Program – often referred to as NVICP or VICP. This is the program that will compensate individuals that experience rare, serious side effects from vaccination. It's also worth mentioning that while vaccine manufacturers are not liable for unforeseen events, they are liable for negligence.

We see the liability language pop up in bills from time to time, and I really can understand how someone who doesn't understand the history and the program would be alarmed and think that vaccines are not safe. But the truth is, if you look closely at the data from the compensation program, it shows that vaccines are extremely safe. Approximately one compensation happens for every million doses of vaccine received.

Impact of this Bill

This bill would impact the school and childcare laws in North Dakota around vaccine requirements for attendance. It would also impact immunization requirements for institutions of higher education. These laws play an important role in the prevention and control of vaccine preventable diseases and help keep students and staff safe.

It conflicts with federal requirements (ex. CMS, OSHA) for vaccinations for employment, which includes healthcare. Immunizations for healthcare workers help protect the workers themselves, their patients, and their families.

It could also affect immunization requirements for specific groups of people who are required to be vaccinated because of their profession and its inherent risks, such as hepatitis B vaccination requirements for tattoo artists, police officers, and first responders. Everyday occupational hazards may expose these individuals to needlesticks and other sharps injuries, putting them at risk for hepatitis B.

The bill also says that state and government entities cannot require an individual to disclose their immunization status. This would be harmful in many situations, such as in the event of an outbreak of a vaccine-preventable disease on a college campus. Knowing the vaccination status of students would help public health authorities to target their interventions and bring the outbreak under control.

Ultimately, the removal of immunization requirements would mean North Dakotans are more vulnerable to vaccine preventable diseases. Please vote "do not pass" on House Bill 1454.

Respectfully submitted, Kylie Hall, MPH Fargo, ND - District 45 Testimony
House Bill No. 1454
House Industry, Business and Labor Committee
Representative Jonathan Warrey, Chairman
January 29, 2025

Chairman Warrey and committee members, my testimony specifically addresses the issue of vaccination requirements.

My name is Alexa Johnson and I am a West Fargo mother of 6. My oldest two boys have autism.

We vaccinated our first son, Ray, at 4 months. Hours later he let out only what I can describe as "crack baby" screams. High-pitched, blood curdling sirens.

I frantically called our doctor's office and she refused to see him. She told me he was having a normal reaction. I believed her. But by the time Ray was 18 months old he was still not speaking.

Stupidly, we continued going to the same doctor when our second son, Ronnie, was born. His face was riddled with eczema and his dirty diapers were rancid. They smelled abnormally acidic. At this point I had started reading about alternative vaccination schedules...schedules that recommended only 1 immunization at a time.

"I'd like to space out Ronnie's shots," I announced to our doctor. "I'm worried about his immune system. And, uh, autism," I shyly said.

"There are NO studies that link vaccines to autism," she laughed. "Don't worry about that. Keep Ronnie on schedule."

And again, I did as I was told.

Ronnie's skin and diapers never improved. But he was an incredibly easy baby. He never fussed. When Ronnie was 18 months old he received his regularly scheduled vaccines. In the days that followed my easy baby turned into a nightmare. My easy sleeper now required hours of bouncing in a dark room to fall asleep. He had started speaking months earlier, but after those shots his vocabulary quit growing.

My boys were nearly impossible to potty train and refused to eat anything but a handful of favorite foods. Ronnie's favorite activity became grabbing anything out of the fridge--especially 18-packs of eggs--and smearing them into the carpet. He spit everywhere, often running to the sink or even the toilet if I dared leave the bathroom door open. Eventually he started banging his head against the wall when he was angry. When we left our rental in Williston we spent \$5,000 to repair the walls, replace the carpet and even the kitchen counter (stained by all his spitting).

Ray will graduate from West Fargo High next year, but probably will never have the awareness to drive, live on his own or support himself.

Ronnie, now 15, never learned to talk. He is still not fully toilet trained and now has epilepsy as well as severe autism. I would be standing in that room with you right now but we just got Ronnie home from the hospital. He spent 5 days there as a result of complications from a new psychiatric medication. He is increasingly violent with me and sometimes bangs his head and wrists to communicate. We have installed shatterproof windows and created a padded room for him in our home. We are currently getting quotes for a garage remodel to expand living space for him because he is wrecking our flooring by jumping on it vigorously with his heels. He sometimes stays awake for 30 hours at a time, despite many medications and treatments. It will cost tens of thousands of dollars to complete the project and we will lose our garage. Ronnie only goes to school for 4 hours each day. Getting consistent respite care for him has proved impossible. Thus far, I have been unable to work to contribute any money to our household. A respite staff shortage has been a long-term statewide problem for the disability community. Even when offered \$30/hr and a flexible schedule, most of our past hires have petered out. I could not even secure care for my mother's funeral. So I had to watch the livestream on my phone in the church parking lot while I cared for Ronnie.

My husband and I are terrified for our sons' futures. The thing we fear the most for our boys is sexual abuse at the hands of a caregiver. A 2011 Arc document states that children with intellectual disabilities are 4 times more likely to be sexually abused than neurotypical children. And that 49 percent of people with intellectual disabilities will experience sexual abuse 10 times within a lifetime. We have already fired one agency caregiver who we suspected was involved with a sex trafficker. My husband and I firmly believe we would not be in this current position if not for the vaccines. And these are the same shots currently required in North Dakota schools.

Were my boys genetically predisposed to autism? Absolutely. Did the shots push them over the edge into autism? Absolutely. No study or doctor can tell me otherwise. I saw what vaccines did to my boys with my own eyes.

The North Dakota public school vaccine requirement puts unfair pressure on parents' medical decisions. School staff in 2 school districts--Williston and West Fargo--have given me calculated and dishonest information about the existence of vaccine exemptions. Most parents do not know exemptions exist and in my personal experience, the schools like to keep it that way.

For the greater health of North Dakota and in honor of the unnecessary suffering of my children, I encourage a do pass recommendation.

Please feel free to contact me with any questions.

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Alexa Johnson 1827 12 St. E West Fargo, ND 58078 District 16 701.793.7450 johnsonfargo@gmail.com



HB 1454

House Industry, Business, and Labor
January 29, 2025
Katie Fitzsimmons, Director of Student Affairs, NDUS
701-328-4109 | katie.fitzsimmons@ndus.edu

Good morning Chair Warrey and members of the House Industry, Business, and Labor Committee. My name is Katie Fitzsimmons and I serve as the Director of Student Affairs for the North Dakota University System. I am here today on behalf of the North Dakota University System and its eleven institutions to provide **neutral** testimony related to HB 1454 and enlighten the committee about the current process used throughout the North Dakota University System.

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

The second option is for students who prefer not to disclose their vaccination history. We do not ask why a student is requesting an exemption; we simply ask for a documented waiver so we know the possible impact of an outbreak should one occur on our campus or community. If an outbreak were to occur, the students who waived supplying records to us would be considered at risk. As such, those students might not be allowed to attend classes in person or live on campus until the threat of disease is no longer present; that would be dependent on the assessment and recommendations of the local public health unit and/or the State Health Officer.

Generally speaking, we do not require any vaccination information from faculty, staff, or visitors to our campuses. However, if a faculty or staff member chooses to enroll in a course and attend it in person, they must also provide records or complete the exemption form, just as an enrolled student. Further, some programs of study require students to provide proof of vaccination from certain preventable diseases to provide patient care, receive seamless placement into a clinical setting, or participate in an internship. Those are very specific to programs and not the entire campus population.

The current language in the bill states, "notwithstanding any other provision of law, a state agency, political subdivision, or any other government entity, <u>may not require an individual</u>



to take, receive, or disclose where the individual has taken or received a medical product unless the manufacturer of the medical product is liable for any death or serious injury caused by the medical product." Under our current process, students are not required to disclose their information; they are able to complete a waiver, thus the process we have in place for the vast majority of our students would remain acceptable practice. We would have questions regarding the students that are required to provide documentation because of their specific programs of study. Those requirements are established best practices and are the requirements set by private health care entities. Our ability to collect that student information enables us to work with our partners to ensure timely placements and on-time graduation for our students.

Our vaccination exemption form is completed online; I attached a copy of the content that we use on that form for your reference. This concludes my testimony related to HB 1454. I stand for questions from Committee members.



(Campus logo here)

IMMUNIZATION EXEMPTION REQUEST FORM

The North Dakota State Board of Higher Education requires proof of immunity against measles, mumps, rubella (MMR) and meningococcal disease (meningitis) prior to enrollment at any North Dakota state college or university.

Students enrolled solely in distance learning courses; immunization is contraindicated by a medical condition; or the student's belief precludes participation in an immunization program may request this exemption.

A request for exemption requires the completion and submission of this form.

STUDENT INFORMATION

Name				
	(First name, middle initial	l, last name – please print)	Former name	
Birthdate_		Student ID #	Phone #	
	Month/Day/Year			
EXEMPT	ION (check all	that apply):		
□MMR	□Meningitis			
determine campus in	d that exclusion fro coordination with	om college and college a the local Public Health (se in which immunization is required, it ma ctivities may be recommended/required b Officer until the public health risk is over. E conditions of this exemption.	by the
(clickable '	"submit" box here)			

Good Morning Chairman Warrey, vice chairs Johnson and Ostlie, and all the members of the House Industry, Business and Labor Committee.

For the record, I am Representative Donna Henderson from District 15, and I am here to present House Bill 1454.

This is a bill that would assures that individuals would not be mandated to receive liability-free medical products. Now this bill was written with vaccines in mind, but can apply to other medical products as well.

In the last several years we have learned of a significant rise of serious injuries and death due to certain vaccinations. I would bet we all know someone personally that suffered a serious injury or death due to a medical product such as this. There are some that have submitted their testimony in support of this bill that attest to that fact. There are probably some in this room that plan to share their personal stories in support of this bill. I could recite pages of data, the same data you can find from reputable sources that could argue the safety of certain vaccines, but this bill is focused on one thing-liability.

Just weeks ago, on December 30th 2024, our North Dakota Attorney General, along with Attorney Generals from 13 other states, wrote a letter to the Health and Human Services Department in Washington DC. This letter references the COVID-19 Vaccine Injury Compensation Program. It chastises the federal government for the

fact that vaccine manufacturers have no liability in regards to vaccines. They state they are disappointed that the federal government is favoring manufacturers over the health of its citizens. It asks for due process for all those harmed, and states that it is unfair that their only recourse is to file a claim with the Countermeasures Injury Compensation Program (CICP). So I thank our Attorney General for publicly acknowledging this problem that would be corrected by the passage of this bill.

Is there any business in this entire state, that you are forced to do business with, that is not liable for harming you?

Is there any other product out there that you cannot recover damages if you are hurt by their products?

No. Everything has some sort of liability.

This bill simply says that someone needs to be liable if the medical product is forced on you.

This bill is not saying you can't offer, or voluntarily take any medical product you want, this bill is not saying you shouldn't voluntarily take any medical product you want, this simply says if you are going to mandate it- meaning forcing someone to take it, there has to be liability for potential damages. Someone has to be liable if it is to be mandated.

Also, to be clear, this bill is not talking about immunization requirements in schools and universities. Those institutions are not affected with this bill as recommended immunizations are not mandated at this time. Anyone can file an exemption for medical, religious and philosophical reasons. My son attended a college in North Dakota from 2021- 2023 without receiving the recommended immunizations by filling out his exemption form. This bill is only related to forced vaccinations. Again, it does not change the recommended vaccine schedule for schools and universities.

Now I don't know what those in opposition will say- but nothing anybody can say would remove the fact that liability is a requirement for every product except one. Why is that? This bill would put it in code for every medical product and make liability universal, across the board, like it should be.

Now if something does happen, the person still has to prove it to the court that they were damaged by the medical product. It's still a big hill to climb. But this bill at least gives to North Dakota citizens, an opportunity, if they are in that position, that they were required to receive a medical product against their will, it gives them, or their family a recourse to move forward. Because right now in our state, we don't have that. This bill protects ND citizens, which is really our job to do.

So- there is some opposition testimony online for this bill, last time I looked, it was all from State Agencies. None from North Dakota citizens. I would argue the current system protects the State agencies, the bill I am proposing protects North Dakota citizens. This bill won't impede the State Agencies from their ability to access

records or hinder investigations or change how they serve their consumers. They simply can't justify forcing someone to receive a medical product against their will with no liability in the name of convenience or protecting their bottom line. It's hard to argue that this bill is not in the citizen's best interest.

No one. And I mean no one should be opposed to this bill. Because we are not restricting anyone's ability to do anything. This is completely about liability, and protecting people who are not in a position to protect themselves.

With that, Mr Chairman, I thank you for this opportunity to present House bill 1454 and I would welcome any questions.



HB 1454 House Industry, Business and Labor Committee January 29, 2025 10:00 a.m.

Chairman Warrey and members of the Industry, Business, and Labor Committee, my name is Sandy Tibke. I am the Executive Director of the Foundation for a Healthy North Dakota. FHND opposes HB1454.

HB1454 would eliminate all college, childcare, and school immunization documentation requirements because these vaccines are included in Vaccine Injury Compensation Program (VICP) and, therefore, could not be required. North Dakota has had school immunization requirements since 1975. Childcare, school, and university immunization requirements play an important role in maintaining immunization rates and ensuring the safety of environments where children and students congregate.

North Dakota already has one of the most relaxed childcare and school immunization policies in the United States. NDCC 23-07-17.1 allows medical, religious, and moral/philosophical exemptions. To claim a religious, moral/philosophical exemption, parents simply have to sign a document prior to school entry. North Dakota is one of only 15 states that allow moral/philosophical exemptions; many of the other states that allow philosophical exemptions require a notary signature or education from a healthcare provider before claiming an exemption. Four states allow medical exemptions and don't' offer religious or philosophical exemptions. States that have easily obtained personal belief exemptions have higher rates of pertussis and measles.

Thank you for your time and consideration.

2025 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee

Room JW327C, State Capitol

HB 1454 2/17/2025

A BILL for an Act to create and enact a new section to chapter 32-12.1 of the North Dakota Century Code, relating to the medical liability of a government entity.

3:11 p.m. Chairman Warrey opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, Brown, Finley-DeVille, Grindberg, Kasper, Koppelman, D. Ruby, Schatz, Schauer, Vollmer

Member Absent: Representative Christy

Discussion Topics:

- Narcan law enforcement
- Probation on vaccines
- Public health emergency

3:16 p.m. Representative Koppelman moved to adopt LC #25.0975.01004, #37911 (bill was further amended and moved 2/19/25).

3:16 p.m. Representative Schatz seconded the motion.

Voice vote.

Motion passed.

3:16 p.m. Allyson M. Hicks, Assistant Attorney General, General Counsel Division, Office of Attorney General, General Counsel for the ND Department of Health and Human Services, presented additional information.

3:40 p.m. Chairman Warrey adjourned the hearing.

Diane Lillis. Committee Clerk

25.0975.01000

Sixty-ninth Legislative Assembly of North Dakota

HOUSE BILL NO. 1454

Introduced by

6

Representatives Henderson, K. Anderson, Frelich, Hauck, Kasper Senators Paulson, Clemens

- 1 A BILL for an Act to create and enact a new section to chapter 32-12.1 of the North Dakota
- 2 Century Code, relating to the medical liability of a government entity.

3 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

- 4 **SECTION 1.** A new section to chapter 32-12.1 of the North Dakota Century Code is created 5 and enacted as follows:
 - Medical liability of government entity.
- 7 <u>1. As used in this section, "medical product" means a product used to diagnose or manage a disease, including a medical device, drug, or biologic.</u>
- Notwithstanding any other provision of law, a state agency, political subdivision, or any other government entity, may not require an individual to take, receive, or disclose whether the individual has taken or received a medical product unless the
 manufacturer of the medical product is liable for any death or serious injury caused by
- the medical product. individual has first been notified of and afforded the opportunity to decline such a requirement and the individual has failed to exercise that opportunity.

2025 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee

Room JW327C, State Capitol

HB 1454 2/19/2025

A BILL for an Act to create and enact a new section to chapter 32-12.1 of the North Dakota Century Code, relating to the medical liability of a government entity.

9:02 a.m. Chairman Warrey opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, Brown, Finley-DeVille, Grindberg, Kasper, Koppelman, D. Ruby, Schatz, Schauer, Vollmer

Member Absent: Representative Christy

Discussion Topics:

- Powers of State Health Officer
- No Statewide orders
- Religious conduct
- Physician orders for immunizations
- Disease control measure
- Court ordered care
- Long term effects
- Life saving measures

9:04 a.m. Allyson Hicks, Assistant Attorney General, General Counsel, Public Health Division of ND DHHS submitted information #38033 and 38034.

9:39 a.m. Representative Donna Henderson, District 15. Calvin, ND, presented amendment language #38050.

9:50 a.m. Chairman Warrey adjourned the hearing.

Diane Lillis, Committee Clerk



STATE OF NORTH DAKOTA

OFFICE OF ATTORNEY GENERAL

www.attorneygeneral.nd.gov (701) 328-2210

MEMORANDUM

TO: Representative Austen Schauer, District 13

FROM: Allyson M. Hicks, Assistant Attorney General

General Counsel, Public Health Division of ND DHHS

DATE: February 18, 2025

RE: Modifications to Authority of the State Health Officer post-COVID

Analysis

I. N.D.C.C. 23-01-05

The main statute which houses the authority of the State Health Officer is North Dakota Century Code (N.D.C.C.) § 23-01-05. Prior to the effective date of the laws 67th Regular Legislative Assembly of North Dakota, which was the first COVID-related legislative session, the text of the statute read as follows:

N.D.C.C. § 23-01-05. Health officer--Qualifications, salary, term, duties--Advisory committee

The governor shall appoint the state health officer who must have had substantive private or public administrative experience and demonstrated experience in the management of people. The state health officer is entitled to receive a salary commensurate with that person's training and experience. The governor shall set the salary of the state health officer within the limits of legislative appropriations to the department. The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years beginning January 1, 1993. The state health officer is the administrative officer of the state department of health. If the governor does not appoint as state health officer a physician licensed in this state, the governor shall appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer. Each member of the advisory committee is entitled to receive reimbursement of expenses in performing official duties in amounts provided by law for other state officers. The term of the advisory committee coincides with the term of the state health officer. A committee member serves at the pleasure of the governor. The duties of the state health officer are as follows:

1. Enforce all rules and regulations as promulgated by the health council.

- 2. Hold public health unit boards of health responsible for enforcement of state rules, serve in an advisory capacity to public health unit boards of health, and provide for coordination of health activities.
- 3. Establish and enforce minimum standards of performance of the work of the local department of health.
- 4. Study health problems and plan for their solution as may be necessary.
- 5. Collect, tabulate, and publish vital statistics for each important political or health administrative unit of the state and for the state as a whole.
- 6. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions subject to the approval of the health council.
- 7. Collect and distribute health education material.
- 8. Maintain a central public health laboratory and where necessary, branch laboratories for the standard function of diagnostic, sanitary and chemical examinations, and production and procurement of therapeutic and biological preparations for the prevention of disease and their distribution for public health purposes.
- 9. Establish a service for medical hospitals and related institutions to include licensing of such institutions according to the standards promulgated by the health council and consultation service to communities planning the construction of new hospitals and related institutions.
- 10. Comply with the state merit system policies of personnel administration.
- 11. Establish a program to provide information to the surviving family of a child whose cause of death is suspected to have been the sudden infant death syndrome.
- 12. Issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. Disease control measures may include special immunization activities and decontamination measures. Written orders issued under this section shall have the same effect as a physician's standing medical order. The state health officer may apply to the district court in a judicial district where a communicable disease is present for an injunction canceling public events or closing places of business. On application of the state health officer showing the necessity of such cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.
- 13. Make bacteriological examination of bodily secretions and excretions and of waters and foods.
- 14. Make preparations and examinations of pathological tissues submitted by the state health officer, by any county superintendent of public health, or by any physician who has been regularly licensed to practice in this state.
- 15. Make all required analyses and preparations, and furnish the results thereof, as expeditiously and promptly as possible.
- 16. Cause sanitary statistics to be collected and tabulated, and cause to be ascertained by research work such methods as will lead to the improvement of the sanitation of the various parts of the state.
- 17. From time to time, cause to be issued bulletins and reports setting forth the results of the sanitary and pathological work done in the laboratories embodying all useful and important information resulting from the work carried on in the

- laboratories during the year, the substance of such bulletins and reports to be incorporated in the annual report of the state health officer.
- 18. Establish by rule a schedule of reasonable fees that may be charged for laboratory analysis. No charge may be made for any analysis conducted in connection with any public health incident affecting an entire region, community, or neighborhood.
- 19. a. Establish a review process for instances in which the department is requested to conduct an epidemiological assessment of a commercial building. The epidemiological assessment must include:
 - (1) A statement of whether there are known environmental causes;
 - (2) If there are known environmental causes identified, a recommendation of how they can be remediated or mitigated; and
 - (3) If there are no known environmental causes identified, a statement that no known causes exist.
 - b. Costs for remediation, mitigation, and consultant services are the responsibility of the building owner. Proof of remediation of any identified environmental concern related to the epidemiological assessment is the burden of the building owner.

Version as of April 2021. Emphasis added. Exhibit A.

During the 67th Legislative Assembly, the following bills were passed¹, which modified the authority of the State Health Officer, either in N.D.C.C. § 23-01-05:

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2021 House Bill 1118 (Exhibit B)
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2021 House Bill 1410 (Exhibit C)

2021 Senate Bill 2181 (Exhibit D)

After the effective dates of the various bills passed by the 67th Legislative Assembly, the text of N.D.C.C. § 23-01-05 read as follows:

N.D.C.C. § 23-01-05. Health officer--Qualifications, salary, term, duties

The governor shall appoint the state health officer who at the time of appointment must be a physician with substantive private or public administrative experience and public health experience. The state health officer is entitled to receive a salary commensurate with that individual's training and experience. The governor shall set the salary of the state health officer within the limits of legislative appropriations to the department. The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years. If the office of the state health officer is filled temporarily, the governor shall appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer. Each member of the advisory committee is entitled to receive reimbursement of expenses in performing official duties in amounts provided

¹ Additional bills were also passed which modified the qualifications of the State Health Officer, however, that was not the requested topic of this memorandum, so those were excluded.

by law for other state officers. The term of the advisory committee coincides with the term of the state health officer. A committee member serves at the pleasure of the governor. The duties of the state health officer are as follows:

- 1. Enforce all regulations as promulgated by the health council and all rules adopted by the department of health and human services.
- 2. Hold public health unit boards of health responsible for enforcement of state rules, serve in an advisory capacity to public health unit boards of health, and provide for coordination of health activities.
- 3. Establish and enforce minimum standards of performance of the work of the local department of health.
- 4. Study health problems and plan for their solution as may be necessary.
- 5. Collect, tabulate, and publish vital statistics for each important political or health administrative unit of the state and for the state as a whole.
- 6. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions subject to the approval of the health council.
- 7. Collect and distribute health education material.
- 8. Maintain a central public health laboratory and where necessary, branch laboratories for the standard function of diagnostic, sanitary and chemical examinations, and production and procurement of therapeutic and biological preparations for the prevention of disease and their distribution for public health purposes.
- 9. Establish a service for medical hospitals and related institutions to include licensing of such institutions according to the standards promulgated by the health council and consultation service to communities planning the construction of new hospitals and related institutions.
- 10. Establish a program to provide information to the surviving family of a child whose cause of death is suspected to have been the sudden infant death syndrome.
- 11. Issue a written order relating to a disease control measure necessary to prevent the spread of a communicable disease. A disease control measure may include a special immunization activity and decontamination measure.
 - a. The state health officer shall limit a written order issued under this section to the geographical area affected by the communicable disease. The state health officer may not issue a statewide order under this section unless the governor has declared a statewide disaster or emergency under chapter 37-17.1 and the governor consents to the order. The statewide order is limited in duration to the duration of the declared disaster or emergency unless terminated earlier pursuant to chapter 37-17.1.
 - b. A written order issued under this section has the same effect as a physician's standing medical order.
 - c. The state health officer shall apply to the district court in a judicial district in which a communicable disease is present for an injunction canceling a public event or closing a place of business. On application of the state health officer showing the necessity of the cancellation, the

- court may issue an ex parte preliminary injunction, pending a full hearing.
- d. Notwithstanding any other provision of law, an order issued pursuant to this subsection may not:
 - (1) Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - (2) Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or
 - (3) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
- e. A person claiming to be aggrieved by a violation of subdivision a may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.
- 12. Make bacteriological examination of bodily secretions and excretions and of waters and foods.
- 13. Make preparations and examinations of pathological tissues submitted by the state health officer, by any county superintendent of public health, or by any physician who has been regularly licensed to practice in this state.
- 14. Make all required analyses and preparations, and furnish the results thereof, as expeditiously and promptly as possible.
- 15. Cause sanitary statistics to be collected and tabulated, and cause to be ascertained by research work such methods as will lead to the improvement of the sanitation of the various parts of the state.
- 16. From time to time, cause to be issued bulletins and reports setting forth the results of the sanitary and pathological work done in the laboratories embodying all useful and important information resulting from the work carried on in the laboratories during the year, the substance of such bulletins and reports to be incorporated in the annual report of the state health officer.
- 17. Establish by rule a schedule of reasonable fees that may be charged for laboratory analysis. No charge may be made for any analysis conducted in connection with any public health incident affecting an entire region, community, or neighborhood.
- 18. a. Establish a review process for instances in which the department is requested to conduct an epidemiological assessment of a commercial building. The epidemiological assessment must include:
 - (1) A statement of whether there are known environmental causes;
 - (2) If there are known environmental causes identified, a recommendation of how they can be remediated or mitigated; and
 - (3) If there are no known environmental causes identified, a statement that no known causes exist.

b. Costs for remediation, mitigation, and consultant services are the responsibility of the building owner. Proof of remediation of any identified environmental concern related to the epidemiological assessment is the burden of the building owner.

Version as of August 1, 2021. Emphasis added. Exhibit E.

The 68th Legislative Assembly passed 2023 HB 1165 (<u>Exhibit F</u>), which modified the authority of the State Health Officer located in N.D.C.C. § 23-01-05. After July 1, 2023, the text of N.D.C.C. § 23-01-05 read as follows:

N.D.C.C. § 23-01-05. Health officer--Qualifications, salary, term, duties

- 1. The governor shall appoint the state health officer who at the time of appointment must be a physician with substantive private or public administrative experience and public health experience. The state health officer is entitled to receive a salary commensurate with that individual's training and experience. The governor shall set the salary of the state health officer within the limits of legislative appropriations to the department.
- 2. The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business.
- 3. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years.
- 4. If the office of the state health officer is filled temporarily, the governor shall appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer. Each member of the advisory committee is entitled to receive reimbursement of expenses in performing official duties in amounts provided by law for other state officers. The term of the advisory committee coincides with the term of the state health officer. A committee member serves at the pleasure of the governor.
- 5. The duties of the state health officer are as follows:
 - a. Provide strategy and policy advice to improve health and wellness.
 - b. Serve in an advisory capacity for local public health and local health officers.
 - c. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions.
 - d. Issue a written order relating to a disease control measure necessary to prevent the spread of a communicable disease. A disease control measure may include a special immunization activity and decontamination measure.
 - (1) The state health officer shall limit a written order issued under this section to the geographical area affected by the communicable disease. The state health officer may not issue a statewide order under this section unless the governor has declared a statewide disaster or emergency under chapter 37-17.1 and the governor consents to the order. The statewide order is limited in duration to the duration of the declared disaster or emergency unless terminated earlier pursuant to chapter 37-17.1.

- (2) A written order issued under this section has the same effect as a physician's standing medical order.
- (3) The state health officer shall apply to the district court in a judicial district in which a communicable disease is present for an injunction canceling a public event or closing a place of business. On application of the state health officer showing the necessity of the cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.
- (4) Notwithstanding any other provision of law, an order issued pursuant to this subsection may not:
 - (a) Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - (b) Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or
 - (c) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
- (5) A person claiming to be aggrieved by a violation of paragraph 1 may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.
- e. Perform all duties required or provided by law.

Version as of July 1, 2023. Emphasis added. Exhibit G.

I have attached a side-by-side comparison of the April 2021 version prior to any changes by the 67th Legislative Assembly and the current version is included as <u>Exhibit H</u>.

II. N.D.C.C. § 23-12-20

Additional limitations which were also passed by the 67th Legislative Assembly, but not included in N.D.C.C. § 23-01-05, include the following:

2021 House Bill 1465 (Exhibit I) created N.D.C.C. § 23-12-20, which read as follows:

N.D.C.C. § 23-12-20 Vaccine and infection information

- 1. Except as provided under sections 15.1–23–02, 23–01–05.3, and 23–07–17.1, neither a state government entity nor any of its subdivisions, agents, or assigns may:
 - a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to state property, funds, or services:

- (1) An individual's vaccination status;
- (2) The presence of pathogens, antigens, or antibodies; or
- (3) An individual's post-transmission recovery status;
- b. Otherwise publish or share an individual's vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or
- c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:
 - (1) An individual's vaccination status;
 - (2) The presence of pathogens, antigens, or antibodies; or
 - (3) An individual's post-transmission recovery status.
- 2. A private business located in this state may not require a patron or customer to provide any documentation certifying vaccination or post-transmission recovery to gain access to, entry upon, or services from the business. This subsection does not apply to a health care provider including a long-term care provider.
- 3. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.
- 4. Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the circumstances under which such documentation may be shared, and exemptions from providing such documentation.
- 5. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37–17.1.
- 6. This section is limited in application to a vaccination authorized by the federal food and drug administration pursuant to an emergency use authorization.

Exhibit J.

The 67th Legislative Assembly then held a Special Session from November 8 through November 12, 2021, during which it passed House Bill 1511 (<u>Exhibit K</u>), which modified N.D.C.C. § 23-12-20, created by House Bill 1465 during the 67th Regular Session. House Bill 1511's language, however, had a sunset clause which repealed N.D.C.C. § 23-12-20 on August 1, 2023. After the 2021 Special Session, the text of N.D.C.C. § 23-12-20 read as follows:

N.D.C.C. § 23-12-20. COVID-19 vaccination and infection information

- 1. Neither a state government entity nor any of its political subdivisions, agents, or assigns may:
 - a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to property, funds, or services:
 - (1) An individual's COVID-19 vaccination status;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or

- (3) An individual's COVID-19 post-transmission recovery status;
- b. Otherwise publish or share an individual's COVID-19 vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or
- c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:
 - (1) An individual's COVID-19 vaccination status;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - (3) An individual's COVID-19 post-transmission recovery status.
- 2. Subsection 1 does not apply to the department of corrections and rehabilitation, a correctional facility as defined under section 12-44.1-01, the state hospital, or a public health unit.
- 3. A private business located in this state or doing business in this state may not require a patron, client, or customer in this state to provide any documentation certifying COVID-19 vaccination, the presence of COVID-19 pathogens, antigens, or antibodies, or COVID-19 post-transmission recovery to gain access to, entry upon, or services from the business. This subsection does not apply to a developmental disability residential facility or a health care provider, including a long-term care provider, basic care provider, and assisted living provider. As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service.
- 4. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.
- 5. Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the circumstances under which such documentation may be shared, and exemptions from providing such documentation.
- 6. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.
- 7. As used in this section, the term "COVID-19" means severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2.

Exhibit L.

The 68th Legislative Assembly of North Dakota passed Senate Bill 2274 (<u>Exhibit M</u>), which preserved N.D.C.C. § 23-12-20 in its current format:

N.D.C.C. § 23-12-20. COVID-19 vaccination and infection information

1. Neither a state government entity nor any of its political subdivisions, agents, or assigns may:

- a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to property, funds, or services:
 - (1) An individual's COVID-19 vaccination status or vaccination status for a vaccine that is under emergency use authorization from the federal food and drug administration;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - (3) An individual's COVID-19 post-transmission recovery status;
- b. Otherwise publish or share an individual's COVID-19 vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or
- c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:
 - (1) An individual's COVID-19 vaccination status or vaccination status for a vaccine that is under emergency use authorization from the federal food and drug administration;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - (3) An individual's COVID-19 post-transmission recovery status.
- 2. Subsection 1 does not apply to the department of corrections and rehabilitation, a correctional facility as defined under section 12-44.1-01, the state hospital, or a public health unit.
- 3. A private business located in this state or doing business in this state may not require a patron, client, or customer in this state to provide any documentation certifying COVID-19 vaccination or vaccination status for a vaccine that is under emergency use authorization from the federal food and drug administration, the presence of COVID-19 pathogens, antigens, or antibodies, or COVID-19 post-transmission recovery to gain access to, entry upon, or services from the business. This subsection does not apply to a developmental disability residential facility or a health care provider, including a long-term care provider, basic care provider, and assisted living provider. As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service.
- 4. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.
- 5. Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the circumstances under which such documentation may be shared, and exemptions from providing such documentation.
- 6. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.
- 7. As used in this section, the term "COVID-19" means severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2.

Exhibit N.

III. N.D.C.C. § 23-07-12.1

Additional limitations which were also passed by the 67th Legislative Assembly, but not included in N.D.C.C. § 23-01-05, include the following:

2021 House Bill 1323 (Exhibit O) created N.D.C.C. § 23-07-12.1, which read as follows:

N.D.C.C. § 23-07-12.1. Limitations on requirements to wear a mask

A statewide elected official or the state health officer may not mandate an individual in this state use a face mask, face shield, or other face covering. This section applies, notwithstanding authority granted under other provisions of law, including section 23-01-05 and chapter 37-17.1.

Exhibit P.

IV. State Health Officer Orders during the COVID-19 Pandemic

Additionally, questions were asked regarding the State Health Officer orders issued during the COVID-19 pandemic, which I could not appropriately answer during the committee work. After consultation with the Disease Control and Forensic Pathology Unit of ND DHHS, please see attached of the State Health Officer orders in response to COVID. <u>Exhibit Q</u>.

Please note that this is an interactive website is available at <u>State Health Officer Orders</u> (<u>https://www.hhs.nd.gov/public-health-information/diseases-conditions-and-immunization/state-health-officer-orders</u>).

Please let me know if you have any questions or would like to discuss further. I have attached all documents referenced herein, which are labeled accordingly.

West's North Dakota Century Code Annotated Title 23. Health and Safety Chapter 23-01. State Department of Health

This section has been updated. Click here for the updated version.

NDCC, 23-01-05

§ 23-01-05. Health officer--Qualifications, salary, term, duties--Advisory committee

The governor shall appoint the state health officer who must have had substantive private or public administrative experience and demonstrated experience in the management of people. The state health officer is entitled to receive a salary commensurate with that person's training and experience. The governor shall set the salary of the state health officer within the limits of legislative appropriations to the department. The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years beginning January 1, 1993. The state health officer is the administrative officer of the state department of health. If the governor does not appoint as state health officer a physician licensed in this state, the governor shall appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer. Each member of the advisory committee is entitled to receive reimbursement of expenses in performing official duties in amounts provided by law for other state officers. The term of the advisory committee coincides with the term of the state health officer. A committee member serves at the pleasure of the governor. The duties of the state health officer are as follows:

- 1. Enforce all rules and regulations as promulgated by the health council.
- 2. Hold public health unit boards of health responsible for enforcement of state rules, serve in an advisory capacity to public health unit boards of health, and provide for coordination of health activities.
- 3. Establish and enforce minimum standards of performance of the work of the local department of health.
- 4. Study health problems and plan for their solution as may be necessary.
- 5. Collect, tabulate, and publish vital statistics for each important political or health administrative unit of the state and for the state as a whole.
- 6. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions subject to the approval of the health council.
- 7. Collect and distribute health education material.

- 8. Maintain a central public health laboratory and where necessary, branch laboratories for the standard function of diagnostic, sanitary and chemical examinations, and production and procurement of therapeutic and biological preparations for the prevention of disease and their distribution for public health purposes.
- 9. Establish a service for medical hospitals and related institutions to include licensing of such institutions according to the standards promulgated by the health council and consultation service to communities planning the construction of new hospitals and related institutions.
- 10. Comply with the state merit system policies of personnel administration.
- 11. Establish a program to provide information to the surviving family of a child whose cause of death is suspected to have been the sudden infant death syndrome.
- 12. Issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. Disease control measures may include special immunization activities and decontamination measures. Written orders issued under this section shall have the same effect as a physician's standing medical order. The state health officer may apply to the district court in a judicial district where a communicable disease is present for an injunction canceling public events or closing places of business. On application of the state health officer showing the necessity of such cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.
- 13. Make bacteriological examination of bodily secretions and excretions and of waters and foods.
- 14. Make preparations and examinations of pathological tissues submitted by the state health officer, by any county superintendent of public health, or by any physician who has been regularly licensed to practice in this state.
- 15. Make all required analyses and preparations, and furnish the results thereof, as expeditiously and promptly as possible.
- 16. Cause sanitary statistics to be collected and tabulated, and cause to be ascertained by research work such methods as will lead to the improvement of the sanitation of the various parts of the state.
- 17. From time to time, cause to be issued bulletins and reports setting forth the results of the sanitary and pathological work done in the laboratories embodying all useful and important information resulting from the work carried on in the laboratories during the year, the substance of such bulletins and reports to be incorporated in the annual report of the state health officer.
- 18. Establish by rule a schedule of reasonable fees that may be charged for laboratory analysis. No charge may be made for any analysis conducted in connection with any public health incident affecting an entire region, community, or neighborhood.
- 19. a. Establish a review process for instances in which the department is requested to conduct an epidemiological assessment of a commercial building. The epidemiological assessment must include:

- (1) A statement of whether there are known environmental causes;
- (2) If there are known environmental causes identified, a recommendation of how they can be remediated or mitigated; and
- (3) If there are no known environmental causes identified, a statement that no known causes exist.
- b. Costs for remediation, mitigation, and consultant services are the responsibility of the building owner. Proof of remediation of any identified environmental concern related to the epidemiological assessment is the burden of the building owner.

Credits

S.L. 1885, ch. 63, §§ 2, 3, 6, 15; S.L. 1889, ch. 22, § 1; S.L. 1897, ch. 35, § 1; S.L. 1899, ch. 58, § 1; S.L. 1903, ch. 181, § 1; S.L. 1923, ch. 227, § 3; S.L. 1933, ch. 189, § 1; S.L. 1943, ch. 207, § 1; S.L. 1947, ch. 200, § 5; S.L. 1977, ch. 104, § 5; S.L. 1987, ch. 290, § 1; S.L. 1993, ch. 218, § 7; S.L. 1993, ch. 247, § 1; S.L. 1995, ch. 243, § 2; S.L. 1999, ch. 242, § 1; S.L. 2001, ch. 29, § 11; S.L. 2005, ch. 32, § 13; S.L. 2013, ch. 203, § 1, eff. Aug. 1, 2013.

Codifications: R.C. 1895, §§ 240 to 242, 244, 252; R.C. 1899, §§ 240 to 242, 244, 252; R.C. 1905, §§ 252 to 254, 256, 258; C.L. 1913, §§ 397 to 399, 401, 403; 1925 Supp., § 396d3; R.C. 1943, § 23-0105; 1957 Supp., § 23-0105.

NDCC 23-01-05, ND ST 23-01-05

Current with legislation from the 2023 Regular Session and Special Session. The statutes are subject to change as determined by the North Dakota Code Revisor. (These changes will be incorporated later this year.)

End of Document

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Sixty-seventh Legislative Assembly of North Dakota In Regular Session Commencing Tuesday, January 5, 2021

HOUSE BILL NO. 1118 (Representatives Devlin, Becker, Bellew, Delzer, Pollert, M. Ruby, Vigesaa, Weisz) (Senator Heckaman)

AN ACT to create and enact a new subsection to section 37-17.1-05 and a new section to chapter 54-03 of the North Dakota Century Code, relating to the governor's authority to issue executive orders and permitting a virtual meeting of the legislative management and a virtual session of the legislative assembly during a declared disaster or emergency; to amend and reenact subsection 12 of section 23-01-05 and subsection 3 of section 37-17.1-05 of the North Dakota Century Code, relating to the authority of the state health officer and the gubernatorial declaration of disaster or emergency; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 12 of section 23-01-05 of the North Dakota Century Code is amended and reenacted as follows:

- 12. Issue <u>any ordersa written order</u> relating to <u>a</u> disease control <u>measures deemed_measure</u> necessary to prevent the spread of <u>a</u> communicable disease. <u>DiseaseA disease</u> control <u>measures measure</u> may include <u>a</u> special immunization <u>activities_activity</u> and decontamination <u>measures</u>measure. Written orders
 - a. The state health officer shall limit a written order issued under this section to the geographical area affected by the communicable disease. The state health officer may not issue a statewide order under this section unless the governor has declared a statewide disaster or emergency under chapter 37-17.1 and the governor consents to the order. The statewide order is limited in duration to the duration of the declared disaster or emergency unless terminated earlier pursuant to chapter 37-17.1.
 - <u>b.</u> <u>A written order</u> issued under this section shall have has the same effect as a physician's standing medical order.
 - c. The state health officer mayshall apply to the district court in a judicial district wherein which a communicable disease is present for an injunction canceling a public eventsevent or closing placesa place of business. On application of the state health officer showing the necessity of suchthe cancellation, the court may issue an exparte preliminary injunction, pending a full hearing.

SECTION 2. AMENDMENT. Subsection 3 of section 37-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

- A disaster or emergency must be declared by executive order or proclamation of the governor if the governor determines a disaster has occurred or a state of emergency exists. The
 - <u>a.</u> Except as provided in subdivision b, the state of disaster or emergency shall—continues until the governor determines that the threat of an emergency has passed or the governor determines the disaster has been dealt with to the extent that emergency conditions no longer exist, whichever occurs first.
 - b. If a state of disaster or emergency relating to public health is declared and in effect and the legislative assembly is not in session, the legislative management may meet to vote on whether the legislative management should request the governor call a special session of the legislative assembly. If the governor does not call a special session within seven days after the legislative management sends a request to the governor, the

declared state of disaster or emergency relating to public health terminates thirty days after the request from the legislative management was sent to the governor. If the governor calls a special session within seven days after the request from the legislative management was sent, the special session must be held within fifteen days of the governor's call for a special session. If the legislative assembly meets to address a declared state of disaster or emergency, the legislative assembly by concurrent resolution may terminate, extend, or modify the state of disaster or emergency.

- <u>c.</u> The legislative assembly by concurrent resolution may terminate a state of disaster or emergency at any time.
- d. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster or emergency, the area or areas threatened, the conditions whichthat have brought it about or which make possible termination of the state of disaster or emergency. An executive order or proclamation must be disseminated promptly by means calculated to bring its contents to the attention of the general public, unless the circumstances attendant upon the disaster or emergency prevent or impede such dissemination, and it must be promptly filed promptly with the department of emergency services, the legislative council, the secretary of state, and the county or city auditor of the jurisdictions affected.

SECTION 3. A new subsection to section 37-17.1-05 of the North Dakota Century Code is created and enacted as follows:

Notwithstanding subsection 3, if a state of disaster or emergency relating to public health is declared and in effect, the governor may not issue an executive order under this section unless the executive order specifically addresses the mitigation of the declared state of disaster or emergency relating to public health.

SECTION 4. A new section to chapter 54-03 of the North Dakota Century Code is created and enacted as follows:

<u>Virtual session of the legislative management and legislative assembly during emergency or disaster.</u>

- 1. If the legislative management meets to vote on whether the legislative management should request the governor call a special session of the legislative assembly, the legislative management may use any technology or electronic means available to conduct meetings and transact legislative business.
- 2. If the governor calls a special session of the legislative assembly to address a state of emergency or disaster or if the legislative assembly reconvenes to address a state of emergency or disaster, the legislative assembly may use any technology or electronic means available to conduct meetings and transact legislative business.
- 3. For purposes of section 7 of article IV of the Constitution of North Dakota, a meeting of the legislative assembly which occurs under this section is deemed to have occurred at the seat of the government, and all actions taken during the meeting have the same legal effect as if the members of the legislative assembly were physically present at the seat of government.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

H. B. NO. 1118 - PAGE 3

	Spe	aker of the House	President of the Sena	President of the Senate		
	Chie	ef Clerk of the House	Secretary of the Sena	ate		
Legislati	ive Assembly of No	rth Dakota and is known	e House of Representatives of the on the records of that body as House of Representatives voted in favor	se Bill No. 1118		
Vote:	Yeas 85	Nays 3	Absent 6			
	Spe	aker of the House	Chief Clerk of the Ho	ouse		
This cer	tifies that two-thirds	of the members-elect of	the Senate voted in favor of said law	V.		
Vote:	Yeas 47	Nays 0	Absent 0			
	Pres	sident of the Senate	Secretary of the Sena	ate		
Receive	d by the Governor	atM. on		, 2021.		
Approve	ed atM. o	n		, 2021.		
			Governor			
Filed in	this office this	day of		, 2021,		
at	o'clock	M.				
			Secretary of State			

Sixty-seventh Legislative Assembly of North Dakota In Regular Session Commencing Tuesday, January 5, 2021

HOUSE BILL NO. 1410

(Representatives Vetter, Damschen, Karls, Klemin, B. Koppelman, K. Koppelman, Pollert, Satrom) (Senators Kannianen, Meyer, Vedaa)

AN ACT to create and enact a new section to chapter 25-01 of the North Dakota Century Code, relating to prohibiting department of human services from substantially burdening the exercise of religion by a patient or resident under the department's care; to amend and reenact sections 12-44.1-14 and 12-47-26, subsection 12 of section 23-01-05, and section 37-17.1-05 of the North Dakota Century Code, relating to prohibiting a correctional facility or facility under the control of the department of corrections and rehabilitation from substantially burdening the exercise of religion by an offender in the facility's custody, the state health officer's authority, and the governor's authority during a declared disaster or emergency; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-44.1-14 of the North Dakota Century Code is amended and reenacted as follows:

12-44.1-14. Inmate rights.

- 1. Subject to reasonable safety, security, discipline, and correctional facility administration requirements, the administrator of each correctional facility shall:
- a. Ensure inmates have confidential access to attorneys and their authorized representatives.
- 2. <u>b.</u> Ensure that inmates are not subjected to discrimination based on race, national origin, color, creed, sex, economic status, or political belief.
- 3. c. Ensure equal access by male and female inmates to programs and services available through the correctional facility.
- 4. d. Ensure access to mail, telephone use, and visitors.
- 5. e. Ensure that inmates are properly fed, clothed, and housed.
- 6. <u>f.</u> Ensure that inmates have adequate medical care. Adequate medical care means necessary treatment for a medical or health condition for which serious pain or hardship would occur if care is not given. A correctional facility may not deny adequate medical care to an inmate who does not have health insurance or does not have the ability to pay the costs of the medical or health care.
- 7. g. Ensure that inmates may reasonably exercise their religious beliefs.
- 2. Correctional facility staff or an administrator of a correctional facility may not:
 - a. Substantially burden the exercise of religion by an offender in the custody of the correctional facility unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - <u>b.</u> <u>Treat religious conduct more restrictively than any comparable secular conduct unless</u> the correctional facility demonstrates the disparate treatment is necessary to further a

- compelling penological interest and is the least restrictive means of furthering that compelling penological interest; or
- c. Deny clergy access to an offender in the custody of the correctional facility for the purpose of providing religious services unless the correctional facility demonstrates the denial is necessary to further a compelling penological interest and is the least restrictive means of furthering that compelling penological interest.
- 3. An offender in the custody of a correctional facility claiming to be aggrieved by a violation of subsection 2 may assert, after exhausting appropriate administrative remedies, that violation as a claim or defense in a judicial proceeding and, if the offender is the prevailing party, may obtain appropriate relief, including costs and reasonable attorney's fees.

SECTION 2. AMENDMENT. Section 12-47-26 of the North Dakota Century Code is amended and reenacted as follows:

12-47-26. Uniform kindly treatment of inmates.

- The warden and all officers of the penitentiary uniformly shall treat the inmates thereofof the penitentiary with kindness, and the warden shall require of the officers and guards that, in the execution of theirthe officers' and guards' respective duties, theythe officers and guards in all cases shall refrain from boisterous and unbecoming language in giving their orders and commands. No corporal Corporal or other painful or unusual punishment shallmay not be inflicted upon the inmates of the penitentiary for violation of the rules and regulations thereofof the penitentiary.
- A facility under the control of the department of corrections and rehabilitation may not:
 - a. Substantially burden the exercise of religion by an offender in the custody of the facility unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - b. Treat religious conduct more restrictively than any comparable secular conduct unless the facility demonstrates the disparate treatment is necessary to further a compelling penological interest and is the least restrictive means of furthering that compelling penological interest; or
 - c. Deny clergy access to an offender in the custody of the facility for the purpose of providing religious services unless the facility demonstrates the denial is necessary to further a compelling penological interest and is the least restrictive means of furthering that compelling penological interest.
- 3. An offender in the custody of a facility claiming to be aggrieved by a violation of subsection 2 may assert, after exhausting appropriate administrative remedies, that violation as a claim or defense in a judicial proceeding and, if the offender is the prevailing party, may obtain appropriate relief, including costs and reasonable attorney's fees.

SECTION 3. AMENDMENT. Subsection 12 of section 23-01-05 of the North Dakota Century Code is amended and reenacted as follows:

12. Issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. Disease control measures may include special immunization activities and decontamination measures. Written orders issued under this section shall have the same effect as a physician's standing medical order. The state health officer may apply to the district court in a judicial district where a communicable disease is present for an injunction canceling public events or closing places of business. On application of the state health officer showing the necessity of such cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.

- <u>a.</u> Notwithstanding any other provision of law, an order issued pursuant to this subsection may not:
 - (1) Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - (2) Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing evidence that a particular religious activity poses an extraordinary health risk; or
 - (3) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
- b. A person claiming to be aggrieved by a violation of subdivision a may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

SECTION 4. A new section to chapter 25-01 of the North Dakota Century Code is created and enacted as follows:

Religious exercise of patient or resident under the care of the department of human services.

- <u>1.</u> The department of human services may not:
 - a. Substantially burden the exercise of religion by patient or resident under the department's care unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - b. Treat religious conduct more restrictively than any comparable secular conduct unless the department demonstrates the disparate treatment is necessary to further a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest; or
 - c. Deny clergy access to a patient or resident for the purpose of providing religious services unless the department demonstrates the denial is necessary to further a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.
- 2. A patient or resident of the department of human services claiming to be aggrieved by a violation of this section, may assert, after exhausting appropriate administrative remedies, that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

SECTION 5. AMENDMENT. Section 37-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-05. The governor and disasters or emergencies - Penalty.

- 1. The governor is responsible to minimize or avert the adverse effects of a disaster or emergency.
- 2. Under this chapter, the governor may issue executive orders and proclamations, and amend or rescind them. Executive orders, proclamations, and regulations have the force of law.
- 3. A disaster or emergency must be declared by executive order or proclamation of the governor if the governor determines a disaster has occurred or a state of emergency exists. The state of disaster or emergency shall continue until the governor determines that the threat of an

emergency has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist. The legislative assembly by concurrent resolution may terminate a state of disaster or emergency at any time. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster or emergency, the area or areas threatened, the conditions which have brought it about or which make possible termination of the state of disaster or emergency. An executive order or proclamation must be disseminated promptly by means calculated to bring its contents to the attention of the general public, unless the circumstances attendant upon the disaster or emergency prevent or impede such dissemination, and it must be promptly filed with the department of emergency services, the secretary of state, and the county or city auditor of the jurisdictions affected.

- 4. An executive order or proclamation of a state of disaster or emergency shall activate the state and local operational plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this chapter or any other provision of law relating to a disaster or emergency.
- 5. During the continuance of any state of disaster or emergency declared by the governor, the governor is commander in chief of the emergency management organization and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or emergency operational plans, but nothing herein restricts the governor's authority to do so by orders issued at the time of the disaster or emergency.
- 6. In addition to any other powers conferred upon the governor by law, the governor may:
 - a. Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in managing a disaster or emergency.
 - b. Utilize all available resources of the state government as reasonably necessary to manage the disaster or emergency and of each political subdivision of the state.
 - c. Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities.
 - d. Subject to any applicable requirements for compensation under section 37-17.1-12, commandeer or utilize any private property if the governor finds this necessary to manage the disaster or emergency.
 - e. Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if the governor deems this action necessary for the preservation of life or other disaster or emergency mitigation, response, or recovery.
 - f. Prescribe routes, modes of transportation, and destinations in connection with an evacuation.
 - g. Control ingress and egress in a designated disaster or emergency area, the movement of persons within the area, and the occupancy of premises therein.
 - h. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles, not including ammunition.
 - i. Make provision for the availability and use of temporary emergency housing.

- j. Make provisions for the control, allocation, and the use of quotas for critical shortages of fuel or other life and property sustaining commodities.
- k. Designate members of the highway patrol, North Dakota national guard, or others trained in law enforcement, as peace officers.
- 7. Any person who willfully violates any provision of an executive order or proclamation issued by the governor pursuant to this chapter is guilty of an infraction.
- 8. AuthorizeThe governor may authorize the adjutant general to recall to state active duty, on a volunteer basis, former members of the North Dakota national guard. Those recalled must possess the qualifications required by the disaster or emergency. Recall under this subsection is effective only for the duration of the disaster or emergency and recalled personnel will be released from state active duty upon competent authority that the requirement of their service under this subsection has passed. Compensation for personnel recalled under this subsection will be based upon section 37-07-05.
- 9. Notwithstanding any other provision of law, an order, proclamation, rule, or regulation issued pursuant to this section may not:
 - a. Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - b. Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing evidence that a particular religious activity poses an extraordinary health risk; or
 - c. Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
- 10. A person claiming to be aggrieved by a violation of subsection 9 may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

H. B. NO. 1410 - PAGE 6

	Speake	r of the House		President of the Senate Secretary of the Senate		
	Chief C	lerk of the House				
				Representatives of t s of that body as Hou		
House Vote:	Yeas 83	Nays 10	Absent 1			
Senate Vote:	Yeas 46	Nays 1	Absent 0			
				Chief Clerk of the F	louse	
Received by th	e Governor at _	M. on			, 2021.	
Approved at	M. on				, 2021.	
				Governor		
Filed in this offi	ice this	day of			, 2021,	
at o'	clock	M.				
				Secretary of State		

Sixty-seventh Legislative Assembly of North Dakota In Regular Session Commencing Tuesday, January 5, 2021

SENATE BILL NO. 2181 (Senators Clemens, Heitkamp, Larson) (Representatives Paur, Satrom, Schauer)

AN ACT to amend and reenact subsection 12 of section 23-01-05 and section 37-17.1-05 of the North Dakota Century Code, relating to the state health officer's authority and the governor's authority during a declared disaster or emergency; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 12 of section 23-01-05 of the North Dakota Century Code is amended and reenacted as follows:

- 12. Issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. Disease control measures may include special immunization activities and decontamination measures. Written orders issued under this section shall have the same effect as a physician's standing medical order. The state health officer may apply to the district court in a judicial district where a communicable disease is present for an injunction canceling public events or closing places of business. On application of the state health officer showing the necessity of such cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.
 - a. Notwithstanding any other provision of law, an order issued pursuant to this subsection may not:
 - (1) Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - (2) Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or
 - (3) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
 - b. A person claiming to be aggrieved by a violation of subdivision a may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

SECTION 2. AMENDMENT. Section 37-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-05. The governor and disasters or emergencies - Penalty.

- 1. The governor is responsible to minimize or avert the adverse effects of a disaster or emergency.
- 2. Under this chapter, the governor may issue executive orders and proclamations, and amend or rescind them. Executive orders, proclamations, and regulations have the force of law.
- 3. A disaster or emergency must be declared by executive order or proclamation of the governor if the governor determines a disaster has occurred or a state of emergency exists. The state of

disaster or emergency shall continue until the governor determines that the threat of an emergency has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist. The legislative assembly by concurrent resolution may terminate a state of disaster or emergency at any time. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster or emergency, the area or areas threatened, the conditions which have brought it about or which make possible termination of the state of disaster or emergency. An executive order or proclamation must be disseminated promptly by means calculated to bring its contents to the attention of the general public, unless the circumstances attendant upon the disaster or emergency prevent or impede such dissemination, and it must be promptly filed with the department of emergency services, the secretary of state, and the county or city auditor of the jurisdictions affected.

- 4. An executive order or proclamation of a state of disaster or emergency shall activate the state and local operational plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this chapter or any other provision of law relating to a disaster or emergency.
- 5. During the continuance of any state of disaster or emergency declared by the governor, the governor is commander in chief of the emergency management organization and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or emergency operational plans, but nothing herein restricts the governor's authority to do so by orders issued at the time of the disaster or emergency.
- 6. In addition to any other powers conferred upon the governor by law, the governor may:
 - a. Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in managing a disaster or emergency.
 - b. Utilize all available resources of the state government as reasonably necessary to manage the disaster or emergency and of each political subdivision of the state.
 - c. Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities.
 - d. Subject to any applicable requirements for compensation under section 37-17.1-12, commandeer or utilize any private property if the governor finds this necessary to manage the disaster or emergency.
 - e. Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if the governor deems this action necessary for the preservation of life or other disaster or emergency mitigation, response, or recovery.
 - f. Prescribe routes, modes of transportation, and destinations in connection with an evacuation.
 - g. Control ingress and egress in a designated disaster or emergency area, the movement of persons within the area, and the occupancy of premises therein.
 - h. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles, not including ammunition.
 - i. Make provision for the availability and use of temporary emergency housing.

- j. Make provisions for the control, allocation, and the use of quotas for critical shortages of fuel or other life and property sustaining commodities.
- k. Designate members of the highway patrol, North Dakota national guard, or others trained in law enforcement, as peace officers.
- 7. Any person who willfully violates any provision of an executive order or proclamation issued by the governor pursuant to this chapter is guilty of an infraction.
- 8. Authorize the adjutant general to recall to state active duty, on a volunteer basis, former members of the North Dakota national guard. Those recalled must possess the qualifications required by the disaster or emergency. Recall under this subsection is effective only for the duration of the disaster or emergency and recalled personnel will be released from state active duty upon competent authority that the requirement of their service under this subsection has passed. Compensation for personnel recalled under this subsection will be based upon section 37-07-05.
- 9. Notwithstanding any other provision of law, an order, proclamation, rule, or regulation issued pursuant to this section may not:
 - a. Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - b. Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or
 - c. Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
- 10. A person claiming to be aggrieved by a violation of subsection 9 may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

S. B. NO. 2181 - PAGE 4

	Preside	ent of the Senate		Speaker of the House		
	Secreta	ary of the Senate		Chief Clerk of the H	ouse	
			ne Senate of the sat body as Senate	Sixty-seventh Legisla Bill No. 2181.	tive Assembly of	
Senate Vote:	Yeas 46	Nays 0	Absent 1			
House Vote:	Yeas 88	Nays 4	Absent 2			
				Secretary of the Ser	nate	
Received by th	ne Governor at _	M. on			, 2021.	
Approved at	M. on				, 2021.	
				Governor		
Filed in this off	ice this	day of			, 2021,	
	'clock					
				Secretary of State		

West's North Dakota Century Code Annotated
Title 23. Health and Safety
Chapter 23-01. State Department of Health

This section has been updated. Click here for the updated version.

NDCC, 23-01-05

§ 23-01-05. Health officer--Qualifications, salary, term, duties

The governor shall appoint the state health officer who at the time of appointment must be a physician with substantive private or public administrative experience and public health experience. The state health officer is entitled to receive a salary commensurate with that individual's training and experience. The governor shall set the salary of the state health officer within the limits of legislative appropriations to the department. The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years. If the office of the state health officer is filled temporarily, the governor shall appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer. Each member of the advisory committee is entitled to receive reimbursement of expenses in performing official duties in amounts provided by law for other state officers. The term of the advisory committee coincides with the term of the state health officer. A committee member serves at the pleasure of the governor. The duties of the state health officer are as follows:

- 1. Enforce all regulations as promulgated by the health council and all rules adopted by the department of health and human services.
- 2. Hold public health unit boards of health responsible for enforcement of state rules, serve in an advisory capacity to public health unit boards of health, and provide for coordination of health activities.
- 3. Establish and enforce minimum standards of performance of the work of the local department of health.
- 4. Study health problems and plan for their solution as may be necessary.
- 5. Collect, tabulate, and publish vital statistics for each important political or health administrative unit of the state and for the state as a whole.
- 6. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions subject to the approval of the health council.
- 7. Collect and distribute health education material.

- 8. Maintain a central public health laboratory and where necessary, branch laboratories for the standard function of diagnostic, sanitary and chemical examinations, and production and procurement of therapeutic and biological preparations for the prevention of disease and their distribution for public health purposes.
- 9. Establish a service for medical hospitals and related institutions to include licensing of such institutions according to the standards promulgated by the health council and consultation service to communities planning the construction of new hospitals and related institutions.
- 10. Establish a program to provide information to the surviving family of a child whose cause of death is suspected to have been the sudden infant death syndrome.
- 11. Issue a written order relating to a disease control measure necessary to prevent the spread of a communicable disease. A disease control measure may include a special immunization activity and decontamination measure.
 - a. The state health officer shall limit a written order issued under this section to the geographical area affected by the communicable disease. The state health officer may not issue a statewide order under this section unless the governor has declared a statewide disaster or emergency under chapter 37-17.1 and the governor consents to the order. The statewide order is limited in duration to the duration of the declared disaster or emergency unless terminated earlier pursuant to chapter 37-17.1.
 - b. A written order issued under this section has the same effect as a physician's standing medical order.
 - c. The state health officer shall apply to the district court in a judicial district in which a communicable disease is present for an injunction canceling a public event or closing a place of business. On application of the state health officer showing the necessity of the cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.
 - d. Notwithstanding any other provision of law, an order issued pursuant to this subsection may not:
 - (1) Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - (2) Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or
 - (3) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
 - e. A person claiming to be aggrieved by a violation of subdivision a may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

- 12. Make bacteriological examination of bodily secretions and excretions and of waters and foods.
- 13. Make preparations and examinations of pathological tissues submitted by the state health officer, by any county superintendent of public health, or by any physician who has been regularly licensed to practice in this state.
- 14. Make all required analyses and preparations, and furnish the results thereof, as expeditiously and promptly as possible.
- 15. Cause sanitary statistics to be collected and tabulated, and cause to be ascertained by research work such methods as will lead to the improvement of the sanitation of the various parts of the state.
- 16. From time to time, cause to be issued bulletins and reports setting forth the results of the sanitary and pathological work done in the laboratories embodying all useful and important information resulting from the work carried on in the laboratories during the year, the substance of such bulletins and reports to be incorporated in the annual report of the state health officer.
- 17. Establish by rule a schedule of reasonable fees that may be charged for laboratory analysis. No charge may be made for any analysis conducted in connection with any public health incident affecting an entire region, community, or neighborhood.
- 18. a. Establish a review process for instances in which the department is requested to conduct an epidemiological assessment of a commercial building. The epidemiological assessment must include:
 - (1) A statement of whether there are known environmental causes;
 - (2) If there are known environmental causes identified, a recommendation of how they can be remediated or mitigated; and
 - (3) If there are no known environmental causes identified, a statement that no known causes exist.
 - b. Costs for remediation, mitigation, and consultant services are the responsibility of the building owner. Proof of remediation of any identified environmental concern related to the epidemiological assessment is the burden of the building owner.

Credits

S.L. 1885, ch. 63, §§ 2, 3, 6, 15; S.L. 1889, ch. 22, § 1; S.L. 1897, ch. 35, § 1; S.L. 1899, ch. 58, § 1; S.L. 1903, ch. 181, § 1; S.L. 1923, ch. 227, § 3; S.L. 1933, ch. 189, § 1; S.L. 1943, ch. 207, § 1; S.L. 1947, ch. 200, § 5; S.L. 1977, ch. 104, § 5; S.L. 1987, ch. 290, § 1; S.L. 1993, ch. 218, § 7; S.L. 1993, ch. 247, § 1; S.L. 1995, ch. 243, § 2; S.L. 1999, ch. 242, § 1; S.L. 2001, ch. 29, § 11; S.L. 2005, ch. 32, § 13; S.L. 2013, ch. 203, § 1, eff. Aug. 1, 2013; S.L. 2021, ch. 191 (H.B. 1118), § 1, eff. April 22, 2021; S.L. 2021, ch. 192 (S.B. 2181), § 1, eff. Aug. 1, 2021; S.L. 2021, ch. 190 (H.B. 1418), § 1, eff. Aug. 1, 2021; S.L. 2021, ch. 92 (H.B. 1410), § 3, eff. Aug. 1, 2021; S.L. 2021, ch. 352 (H.B. 1247), § 107, eff. Sept. 1, 2022.

Codifications: R.C. 1895, §§ 240 to 242, 244, 252; R.C. 1899, §§ 240 to 242, 244, 252; R.C. 1905, §§ 252 to 254, 256, 258; C.L. 1913, §§ 397 to 399, 401, 403; 1925 Supp., § 396d3; R.C. 1943, § 23-0105; 1957 Supp., § 23-0105.

NDCC 23-01-05, ND ST 23-01-05

Current with legislation from the 2023 Regular Session and Special Session. The statutes are subject to change as determined by the North Dakota Code Revisor. (These changes will be incorporated later this year.)

End of Document

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Sixty-eighth Legislative Assembly of North Dakota In Regular Session Commencing Tuesday, January 3, 2023

HOUSE BILL NO. 1165 (Representative M. Ruby)

AN ACT to create and enact three new sections to chapter 23-01 of the North Dakota Century Code. relating to powers and duties of the department of health and human services public health division, central public health laboratory, and surge staffing; to amend and reenact subdivision p of subsection 1 of section 11-16-01, section 14-13-03, subsection 2 of section 15-52-03, section 16.1-02-06, subsection 2 of section 19-24.1-38, sections 23-01-03.1, 23-01-03.3, 23-01-04.3, 23-01-05, and 23-01-05.1, subsection 3 of section 23-01-05.3, sections 23-01-05.4, 23-01-08, 23-01-08.1, and 23-01-12, subsection 3 of section 23-01-44, sections 23-01.2-01, 23-01.2-03, and 23-01.2-04, subsection 8 of section 23-01.3-01, subsection 1 of section 23-01.3-06, section 23-01.3-08, subsections 8, 17, and 21 of section 23-02.1-01, sections 23-02.1-02 and 23-02.1-03, subsection 4 of section 23-07-02.3, sections 23-07-15, 23-07.2-01, and 23-09.4-08, subsection 4 of section 23-10-03, section 23-10-06, subsection 2 of section 23-10-06.1, sections 23-10-12, 23-16-05, 23-16-06, 23-16-10, 23-16-11, 23-17-08, 23-17.6-01, 23-17.6-02, 23-17.6-04, 23-17.6-06, 23-17.7-03, 23-23-03, 23-24-01, 23-24-02, 23-24-02.1, 23-24-06, 23-27-03, and 23-27-04.7, subsection 3 of section 23-27-04.9, sections 23-35.1-02, 23-35.1-03, and 23-36-08, subsection 1 of section 23-38.1-02, section 23-43-01, subsection 3 of section 23-43-05, section 23-46-02, subsection 1 of section 23-47-03, subsection 7 of section 25-01-01, subsection 1 of section 25-01-01.1, subsection 3 of section 25-02-01.1, sections 25-03.1-34.1, 25-03.3-01, 25-03.3-12, 25-03.3-13, 25-03.3-14, 25-03.3-17, 25-03.3-18, 25-03.3-18.1, 25-03.3-24, 25-04-08.1, and 25-11-02, subsection 2 of section 37-17.4-01, sections 43-10-02, 43-12.3-01, 43-12.3-02, 43-12.3-03, 43-12.3-04, 43-12.3-05, 43-12.3-06, and 43-12.3-07, subsection 14 of section 43-15-10, sections 43-28.1-01, 43-28.1-03, 43-28.1-05, 43-28.1-07, 43-28.1-08, 43-28.1-09, 43-29.1-01, and 43-29.1-02, subsection 1 of section 43-29.1-03, sections 43-29.1-04, 43-29.1-05, and 43-29.1-06, subsection 5 of section 43-29.1-07, section 43-29.1-08. 43-34-02. 43-38-01. 43-38-02. and 43-38-03. subsection 1 of section 43-43-01. sections 43-43-03 and 43-43-05, subsection 10 of section 50-01.1-06, sections 50-06-01.1, 50-06-01.3, and 50-06-01.4, subsection 3 of section 50-06-05.3, sections 50-06-05.5, 50-06-05.8, 50-06-06.6, 50-06-30, 50-06-31, and 50-06-32, subsection 1 of section 50-06-43.2, subsection 4 of section 50-06.1-01, subsection 7 of section 50-10.1-03, subsection 1 of section 50-11.1-25, sections 50-21-02, 50-21-04, and 50-24.6-02, subsection 3 of section 50-25.1-04.1, subsection 1 of section 50-28-04, subsection 1 of section 50-28-05, subsection 2 of section 50-35-01, section 54-44.3-31, subsection 1 of section 54-07-01.2, section 54-46-13, subsection 1 of section 54-59-25, and sections 54-59-33 and 57-60-03 of the North Dakota Century Code, relating to the powers and duties of the department of health and human services, state health officer, state health council and the executive director of the department of health and human services; and to repeal sections 23-01-01, 23-01-06, and 23-07-07 of the North Dakota Century Code, relating to the health division, a biennial report, and reporting sexually transmitted diseases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision p of subsection 1 of section 11-16-01 of the North Dakota Century Code is amended and reenacted as follows:

p. Institute and defend proceedings under sections 14-09-12 and 14-09-19 and chapters 14-15, 27-20.1, 27-20.2, 27-20.3, 27-20.4, and 50-01 upon consultation with the human service zone director or the executive director commissioner of the department of health and human services or designee.

SECTION 2. AMENDMENT. Section 14-13-03 of the North Dakota Century Code is amended and reenacted as follows:

14-13-03. Definitions.

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

- 1. "Appropriate authority in the receiving state" as used in paragraph 1 of article V of the compact with reference to this state means the <u>executive directorcommissioner</u> of the department of health and human services <u>or designee</u>.
- "Appropriate public authorities" as used in article III of the compact with reference to this state means the department of health and human services, and the department shall receive and act with reference to notices required by article III.

SECTION 3. AMENDMENT. Subsection 2 of section 15-52-03 of the North Dakota Century Code is amended and reenacted as follows:

- 2. The council consists of sixteen members:
 - a. (1) Two members of the senate, one of whom must be from the majority party and one of whom must be from the minority party, selected by the chairman of the legislative management;
 - (2) Two members of the house of representatives, one of whom must be from the majority party and one of whom must be from the minority party, to be selected by the chairman of the legislative management; and
 - (3) Two members of the department of health and human services, of which one member is appointed by the state health officer or designee;
 - b. One member selected by each of the following:
 - The state board of higher education;
 - (2) The North Dakota medical association;
 - (3) The North Dakota hospital association;
 - (4) The veterans administration hospital in Fargo;
 - (5) The North Dakota center for nursing; and
 - (6) The university of North Dakota center for rural health; and
 - c. Four members selected by the dean of the university of North Dakota school of medicine and health sciences, one from each of the four campuses of the school of medicine and health sciences with headquarters in Bismarck, Fargo, Grand Forks, and Minot.

SECTION 4. AMENDMENT. Section 16.1-02-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-06. Reporting deceased individuals and changes of names - Changes to records in the central voter file.

The state health officer department of health and human services shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older who has died while maintaining residence in this state since the last report. Within thirty days after receiving a report, the secretary of state shall designate each individual included in the report as "deceased" in the central voter file.

- The state health officer department of health and human services shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older whose name was changed by marriage since the last report.
- 3. After receiving notice of death of an individual who has died outside the county, the county auditor shall designate that individual as "deceased" in the central voter file. Notice must be in the form of a printed obituary or a written statement signed by an individual having knowledge of the death of the individual.

SECTION 5. AMENDMENT. Subsection 2 of section 19-24.1-38 of the North Dakota Century Code is amended and reenacted as follows:

2. The chairman of the legislative management shall appoint two members of the legislative assembly to serve on the advisory board, one member from each chamber. The legislative council shall pay the compensation and expense reimbursement for the legislative members. The terms of members of the appointed advisory board are for two years and members may be reappointed by the appointing entity. The state health officer or designee shall serve as an ex officio voting member and as chairman of the advisory board.

SECTION 6. AMENDMENT. Section 23-01-03.1 of the North Dakota Century Code is amended and reenacted as follows:

23-01-03.1. Newborn metabolic and genetic disease screening tests.

- 1. The department of health and human services shall adopt rules relating to the storage, maintenance, and disposal of blood spots or other newborn screening specimens.
- 2. The health councilstate health officer shall specify a panel of metabolic diseases and genetic diseases for which newborn screening must be performed. The screening panel must include disorders and diseases selected by the state health officer with input from an advisory committee that is approved by the health council.

SECTION 7. AMENDMENT. Section 23-01-03.3 of the North Dakota Century Code is amended and reenacted as follows:

23-01-03.3. Long-term care nursing scholarship and loan repayment grant program.

- 1. The state health councildepartment of health and human services, in cooperation with the North Dakota long term care association, shall administer the long-term care nursing scholarship and loan repayment grant program. The purpose of the program is to provide matching funds to nursing facilities for the facilities to use in recruiting and retaining nurses by providing scholarships to nursing facility staff and other individuals to obtain a nursing education and by assisting in the repayment of student loans for licensed nurses employed in a nursing facility. The department of health and human services shall adopt rules necessary to administer the program, including rules establishing criteria regarding eligibility for and distribution of program grants.
- 2. An applicant for a program grant shall establish that the applicant:
 - a. Is a licensed nursing facility;
 - Has available matching funds equal to the amount of the grant request; and
 - c. Meets the eligibility criteria established by rule.
- An eligible applicant may receive a program grant not exceeding five thousand five hundred dollars in the first year of the biennium. Any funds appropriated by the legislative assembly for the grant program which are remaining after the first year of the biennium may be distributed

to eligible applicants in the second year of the biennium in any amount determined by the state health council department of health and human services.

SECTION 8. AMENDMENT. Section 23-01-04.3 of the North Dakota Century Code is amended and reenacted as follows:

23-01-04.3. Alternative health care services pilot project - Application - Notice - Hearing - Approval - Duration.

- 1. At any time that the health care needs of a city, township, or other geographic area are not being adequately met, any person may apply to the state health council department of health and human services for approval to conduct an alternative health care services pilot project. The application must address the need for and benefits of the pilot project. It must also contain a detailed description of the nature and scope of the project, quality control, organization, accountability, responsibility, and financial feasibility.
- 2. Upon receipt of an application under subsection 1, the state health councildepartment of health and human services shall schedule a public hearing, send notice to all interested parties, and give public notice of the hearing by publication in the official newspaper of each county in the pilot project area. At the hearing, the councildepartment of health and human services shall accept written and oral testimony. The councildepartment of health and human services shall review the application and all testimony presented at the hearing and approve, disapprove, or modify and approve the application based on criteria established by the councildepartment of health and human services. The criteria must address the availability and use of health personnel, facilities, and services.
- 3. Notwithstanding any other provisions of law, upon approval of an application submitted under subsection 1, the state health councildepartment of health and human services, in consultation with the state health officer and any other public or private entity consulted by the state health councildepartment of health and human services, shall set the standards for the delivery of health care services by the pilot project. The standards may not adversely affect the state's participation in federal Medicare and Medicaid programs. No more than three separate projects may be operational at any time and no project may be operational for longer than five years.

SECTION 9. AMENDMENT. Section 23-01-05 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05. Health officer - Qualifications, salary, term, duties.

- 1. The governor shall appoint the state health officer who at the time of appointment must be a physician with substantive private or public administrative experience and public health experience. The state health officer is entitled to receive a salary commensurate with that individual's training and experience. The governor shall set the salary of the state health officer within the limits of legislative appropriations to the department.
- <u>2.</u> The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business.
- 3. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years.
- 4. If the office of the state health officer is filled temporarily, the governor shall appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer. Each member of the advisory committee is entitled to receive reimbursement of expenses in performing official duties in amounts provided by law for other state officers. The term of the advisory committee coincides with the term of the state health officer. A committee member serves at the pleasure of the governor.

- 5. The duties of the state health officer are as follows:
- 1. Enforce all regulations as promulgated by the health council and all rules adopted by the department of health and human services.
- 2. Hold public health unit boards of health responsible for enforcement of state rules, serve
 - <u>a.</u> Provide strategy and policy advice to improve health and wellness.
 - <u>b.</u> <u>Serve</u> in an advisory capacity to <u>for local</u> public health <u>unit boards of health</u>, and <u>provide for coordination of local</u> health <u>activities of ficers</u>.
- 3.Establish and enforce minimum standards of performance of the work of the local department of health.
- 4. Study health problems and plan for their solution as may be necessary.
- 5. Collect, tabulate, and publish vital statistics for each important political or health administrative unit of the state and for the state as a whole.
- 6. <u>c.</u> Promote the development of local health services and recommend the allocation of health funds to local jurisdictions subject to the approval of the health council.

7. Collect and distribute health education material.

- 8. Maintain a central public health laboratory and where necessary, branch laboratories for the standard function of diagnostic, sanitary and chemical examinations, and production and procurement of therapeutic and biological preparations for the prevention of disease and their distribution for public health purposes.
- 9. Establish a service for medical hospitals and related institutions to include licensing of such institutions according to the standards promulgated by the health council and consultation service to communities planning the construction of new hospitals and related institutions.
- 10. Establish a program to provide information to the surviving family of a child whose cause of death is suspected to have been the sudden infant death syndrome.
- 11. <u>d.</u> Issue a written order relating to a disease control measure necessary to prevent the spread of a communicable disease. A disease control measure may include a special immunization activity and decontamination measure.
 - a. (1) The state health officer shall limit a written order issued under this section to the geographical area affected by the communicable disease. The state health officer may not issue a statewide order under this section unless the governor has declared a statewide disaster or emergency under chapter 37-17.1 and the governor consents to the order. The statewide order is limited in duration to the duration of the declared disaster or emergency unless terminated earlier pursuant to chapter 37-17.1.
 - b. (2) A written order issued under this section has the same effect as a physician's standing medical order.
 - e. (3) The state health officer shall apply to the district court in a judicial district in which a communicable disease is present for an injunction canceling a public event or closing a place of business. On application of the state health officer showing the necessity of the cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.

- d. (4) Notwithstanding any other provision of law, an order issued pursuant to this subsection may not:
 - (1) (a) Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - (2) (b) Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or
 - (3) (c) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
- e. (5) A person claiming to be aggrieved by a violation of subdivision aparagraph 1 may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.
- 12. Make bacteriological examination of bodily secretions and excretions and of waters and foods.
- 13. Make preparations and examinations of pathological tissues submitted by the state health officer, by any county superintendent of public health, or by any physician who has been regularly licensed to practice in this state.
- 14. Make all required analyses and preparations, and furnish the results thereof, as expeditiously and promptly as possible.
- 15. Cause sanitary statistics to be collected and tabulated, and cause to be ascertained by research work such methods as will lead to the improvement of the sanitation of the various parts of the state.
- 16. From time to time, cause to be issued bulletins and reports setting forth the results of the sanitary and pathological work done in the laboratories embodying all useful and important information resulting from the work carried on in the laboratories during the year, the substance of such bulletins and reports to be incorporated in the annual report of the state health officer.
- 17. Establish by rule a schedule of reasonable fees that may be charged for laboratory analysis. No charge may be made for any analysis conducted in connection with any public health incident affecting an entire region, community, or neighborhood.
- 18. a. Establish a review process for instances in which the department is requested to conduct an epidemiological assessment of a commercial building. The epidemiological assessment must include:
 - (1) A statement of whether there are known environmental causes;
 - (2) If there are known environmental causes identified, a recommendation of how they can be remediated or mitigated; and
 - (3) If there are no known environmental causes identified, a statement that no known causes exist.
 - b. Costs for remediation, mitigation, and consultant services are the responsibility of the building owner. Proof of remediation of any identified environmental concern related to the epidemiological assessment is the burden of the building owner
 - e. Perform all duties required or provided by law.

SECTION 10. AMENDMENT. Section 23-01-05.1 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.1. Organ or tissue transplant assistance administration - Standing appropriation.

The executive director of the department of health and human services shall select a private nonprofit patient-oriented organization incorporated in this state for the purpose of administering financial assistance to organ or tissue transplant patients who are residents of this state. The department of health and human services shall adopt rules governing administration of this section. The organization selected shall administer and provide grants from available funds to alleviate demonstrated financial needs of transplant patients for any costs associated with transplant operations, under guidelines based on current social service eligibility requirements. There is hereby created as a special fund in the state treasury an organ transplant support fund, the principal and income of which is hereby appropriated to the organization selected under this section. The organization administering the fund may solicit contributions from private or governmental sources and such contributions may be deposited in the fund.

SECTION 11. AMENDMENT. Subsection 3 of section 23-01-05.3 of the North Dakota Century Code is amended and reenacted as follows:

3. Notwithstanding any other provision of law, a health care provider, elementary or secondary school, early childhood facility, public or private postsecondary educational institution, city or county board of health, district health unit, and the state health officerdepartment of health and human services may exchange immunization data in any manner with one another. Immunization data that may be exchanged under this section is limited to the date and type of immunization administered to a patient and may be exchanged regardless of the date of the immunization.

SECTION 12. AMENDMENT. Section 23-01-05.4 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.4. Department to employ state forensic examiner - Qualifications - Duties.

The department of health and human services may employ and establish the qualifications and compensation of the state forensic examiner. The state forensic examiner must be a physician who is board-certified or board-eligible in forensic pathology, who is licensed to practice in this state, and who is in good standing in the profession. The state forensic examiner shall:

- 1. Exercise all authority conferred upon the coroner under chapter 11-19.1 and any other law;
- 2. Consult with local coroners on the performance of their duties as coroners;
- Conduct investigations into the cause of death of and perform autopsies on any deceased human body whenever requested to do so by the acting local county coroner or the local state's attorney;
- 4. Provide training and educational materials to local county coroners, law enforcement, and any other person the state forensic examiner deems necessary;
- 5. Maintain complete records of the cause, manner, and mode of death necessary for accurate health statistics and for public health purposes; and
- 6. Perform other duties assigned by the state health officer commissioner of the department of health and human services.

SECTION 13. A new section to chapter 23-01 of the North Dakota Century Code is created and enacted as follows:

Powers and duties of the public health division.

The public health division shall:

- 1. Enforce rules adopted by the department of health and human services.
- 2. Hold public health unit boards of health responsible for enforcement of state rules, serve in an advisory capacity to public health unit boards of health, and provide for coordination of health activities.
- 3. Establish and enforce minimum standards of performance of the work of the local department of health.
- 4. Study health problems and plan for their solution as may be necessary.
- 5. Establish a service for medical hospitals and related institutions to include licensing of the institutions according to the standards promulgated by the department and consultation service to communities planning the construction of new hospitals and related institutions.
- <u>6.</u> <u>Maintain a central public health laboratory and where necessary, branch laboratories.</u>
- 7. Perform all duties required or provided by law.

SECTION 14. A new section to chapter 23-01 of the North Dakota Century Code is created and enacted as follows:

Powers and duties of the central public health laboratory.

The central public health laboratory:

- 1. Must be maintained for the standard function of diagnostic, sanitary and chemical examinations, and production and procurement of therapeutic and biological preparations for the prevention of disease and their distribution for public health purposes.
- 2. Shall make bacteriological examination of bodily secretions and excretions and of waters and foods.
- 3. Shall make preparations and examinations of pathological tissues submitted by the state health officer, by any county superintendent of public health, or by any physician who has been regularly licensed to practice in this state.
- 4. Shall make all required analyses and preparations, and furnish the results thereof, as expeditiously and promptly as possible.
- 5. Shall cause sanitary statistics to be collected and tabulated, and cause to be ascertained by research work such methods as will lead to the improvement of the sanitation of the various parts of the state.
- 6. From time to time, shall cause to be issued bulletins and reports setting forth the results of the sanitary and pathological work done in the laboratories embodying all useful and important information resulting from the work carried on in the laboratories during the year.
- 7. Shall establish by rule a schedule of reasonable fees that may be charged for laboratory analysis. A charge may not be made for any analysis conducted in connection with a public health incident affecting an entire region, community, or neighborhood.
- 8. Shall establish a review process for instances in which the department of health and human services is requested to conduct an epidemiological assessment of a commercial building.
 - a. The epidemiological assessment must include:

- (1) A statement of whether there are known environmental causes;
- (2) If there are known environmental causes identified, a recommendation of how the causes can be remediated or mitigated; and
- (3) If there are no known environmental causes identified, a statement that no known causes exist.
- b. Costs for remediation, mitigation, and consultant services are the responsibility of the building owner. Proof of remediation of any identified environmental concern related to the epidemiological assessment is the burden of the building owner.

SECTION 15. A new section to chapter 23-01 of the North Dakota Century Code is created and enacted as follows:

Surge staffing.

The department of health and human services may employ staff to deploy to local hospitals, basic care facilities, long-term care facilities, and other health care settings to cover staff shortages. The hospital or facility must be responsible for insuring the staff members while the staff work at the hospital or facility. For indemnification and liability purposes, the staff member must be considered an employee of the hospital or facility during deployment at the hospital or facility. The department of health and human services may adopt rules to effectuate this section.

SECTION 16. AMENDMENT. Section 23-01-08 of the North Dakota Century Code is amended and reenacted as follows:

23-01-08. Directors of divisions - Deputy - Appointment, salary, duties.

The executive director commissioner of the department of health and human services or designee shall appoint directors of the various divisions of the department and shall determine the salary, within the limits of legislative appropriations to the department and in conformity with the state merit system, to be received by such persons. The duties of such director must be those prescribed by the executive director commissioner of the department of health and human services or designee. The executive director of the department of health and human services or designee may appoint a deputy state health officer. A deputy state health officer who does not hold a health-related degree may not individually issue an order regarding public health unless the order is cosigned by a physician who is employed by the department or cosigned by the state epidemiologist. The deputy state health officer serves at the pleasure of the executive director of the department of health and human services state health officer.

SECTION 17. AMENDMENT. Section 23-01-08.1 of the North Dakota Century Code is amended and reenacted as follows:

23-01-08.1. Criminal history background checks.

The department of health and human services may require a final applicant for a job opening or a current employee with the department, as designated by the state health officercommissioner of the department of health and human services, complete a state and national criminal history record check as provided under section 12-60-24.

SECTION 18. AMENDMENT. Section 23-01-12 of the North Dakota Century Code is amended and reenacted as follows:

23-01-12. Hospital records to be kept at direction of state health officerdepartment.

When any person is admitted into a lying-in hospital or other institution, public or private, to which persons resort for the treatment of disease or for confinement, or to which persons are committed by process of law, the superintendent, manager, or other person in charge of such institution shall make a

record of all the personal and statistical particulars relative to such person. The record must be in such form as is directed by the state health officer department of health and human services. In the case of any person admitted or committed for medical treatment of disease, the physician in charge shall specify for entry in the records the nature of the disease and where, in the physician's opinion, it was contracted. The personal particulars and information required for compliance with the provisions of this section must be obtained from the individual personally if practicable, and when the information cannot be obtained from the individual, from the individual's relatives or friends or from any other person acquainted with the facts.

SECTION 19. AMENDMENT. Subsection 3 of section 23-01-44 of the North Dakota Century Code is amended and reenacted as follows:

- 3. The department of health and human services may authorize a qualified entity to operate a program in a county if:
 - a. The area to be served is at risk of an increase or potential increase in prevalence of viral hepatitis or human immunodeficiency virus;
 - b. A syringe exchange program is medically appropriate as part of a comprehensive public health response; and
 - c. The qualified entity conducted a public hearing and submitted a report of the findings and an administration plan for the program to the state health officer department of health and human services.

SECTION 20. AMENDMENT. Section 23-01.2-01 of the North Dakota Century Code is amended and reenacted as follows:

23-01.2-01. Trauma system established - Duties of health council.

The health council, in conjunction with the department of health and human services, may establish and maintain a comprehensive trauma system for the state. The trauma system may include standards for the following components:

- 1. A system plan.
- 2. Prehospital emergency medical services.
- 3. Hospitals, for which the standards must include:
 - a. Standards for designation, redesignation, and dedesignation of trauma centers.
 - b. Standards for evaluation and quality improvement programs for designated trauma centers. The standards must require each trauma center to collect quality improvement data and to provide specified portions to the department for use in state and regional trauma quality improvement programs.
 - c. Qualifications for trauma center personnel.
- 4. A trauma registry. Data in the trauma registry is not subject to subpoena or discovery or introduction into evidence in any civil action. Designated trauma centers must participate in the trauma registry. A hospital not designated as a trauma center must provide to the registry a minimum set of data elements for all trauma patients as determined by the health council.
- 5. A trauma quality improvement program to monitor the performance of the trauma system. The proceedings and records of the program are not subject to subpoena or discovery or introduction into evidence in any civil action arising out of any matter that is the subject of consideration by the program.

SECTION 21. AMENDMENT. Section 23-01.2-03 of the North Dakota Century Code is amended and reenacted as follows:

23-01.2-03. Trauma center designation.

- 1. Effective January 1, 2011, a hospital that offers emergency services to the public shall meet trauma center designation standards and participate in the trauma system.
- 2. The department of health and human services shall adopt rules that allow provisional trauma designation status for a hospital that is partially compliant with trauma designation standards. When issuing a provisional trauma designation, the state health council department of health and human services shall allow a reasonable amount of time, determined by the department, for a hospital to fully meet all trauma designation standards.

SECTION 22. AMENDMENT. Section 23-01.2-04 of the North Dakota Century Code is amended and reenacted as follows:

23-01.2-04. Medical director.

The executive director commissioner of the department of health and human services or designee shall appoint an emergency medical services and trauma medical director to provide medical oversight and consultation in the development and administration of the state emergency medical services and trauma systems. The medical director must be a physician licensed in the state and must be contracted and paid by the department of health and human services.

SECTION 23. AMENDMENT. Subsection 8 of section 23-01.3-01 of the North Dakota Century Code is amended and reenacted as follows:

- 8. "Public health authority" means the department of health and human services' <u>public</u> health division, department of environmental quality, a local public health unit, and any authority or instrumentality of the United States, a tribal government, a state, or a political subdivision of a state, a foreign nation, or a political subdivision of a foreign nation, which is:
 - a. Primarily responsible for public health matters; and
 - b. Primarily engaged in activities such as injury reporting, public health surveillance, and public health investigation or intervention.

SECTION 24. AMENDMENT. Subsection 1 of section 23-01.3-06 of the North Dakota Century Code is amended and reenacted as follows:

- 1. Notwithstanding any other law, a public health authority, or the agent of any such entity, may disclose protected health information to a law enforcement authority if the state health-officerdepartment of health and human services determines that:
 - The protected health information is necessary to a legitimate law enforcement inquiry that has begun or may be initiated into a particular violation of a criminal law or public health law being conducted by the authority; and
 - b. The investigative or evidentiary needs of the law enforcement authority cannot be satisfied by nonidentifiable health information or by any other information.

SECTION 25. AMENDMENT. Section 23-01.3-08 of the North Dakota Century Code is amended and reenacted as follows:

23-01.3-08. Status of information in possession of a local public health authority.

Any protected health information that is created or received by a local public health authority, and that is submitted or is required to be submitted to the department of health and human services' <u>public</u>

health division, is confidential and subject to the protection of, and may be disclosed only as authorized by, this chapter.

SECTION 26. AMENDMENT. Subsections 8, 17, and 21 of section 23-02.1-01 of the North Dakota Century Code are amended and reenacted as follows:

- 8. "Filing" means the presentation of a record, report, or other information provided for in this chapter of a birth, death, fetal death, adoption, marriage, divorce, or other event as specified by the state health officer department of health and human services for registration by the state registrar.
- 17. "Registration" means the acceptance by the state registrar and incorporation into official records, reports, or other records provided for in this chapter, of birth, death, fetal death, marriage, divorce, or other records as may be determined by the state health officerdepartment of health and human services.
- 21. "System of vital records registration" includes the registration, collection, preservation, amendment, and certification of birth, death, fetal death, marriage, divorce, or other records as may be determined necessary by the state health officer or the state health officer's designeed epartment of health and human services.

SECTION 27. AMENDMENT. Section 23-02.1-02 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-02. Office of statistical services.

There is hereby established in the department of health and human services an office of statistical services, which shall install, maintain, and operate a system of health statistics tabulation and analysis and a system of vital records registration throughout the state. The executive directorcommissioner of the department of health and human services or designee may create within the office of statistical services such working divisions as may be necessary to comply with the provisions of this chapter and shall appoint the directors of such divisions in accordance with the merit system laws and regulations of the state of North Dakota.

SECTION 28. AMENDMENT. Section 23-02.1-03 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-03. Director of the office of statistical services and associative duties, state and deputy state registrars.

The executive director commissioner of the department of health and human services or designee shall appoint a director of the office of statistical services, in accordance with the merit system laws and regulations of the state of North Dakota, who must be the ex officio state registrar of vital statistics. The deputy state registrar of vital statistics must also be appointed by the executive director commissioner of the department of health and human services or designee. The director of the office of statistical services shall administer and enforce this chapter and the rules and regulations issued hereunder, and issue instructions for the efficient administration of a statewide system of health statistics tabulation and analysis and a statewide system of vital records registration. The director of the office of statistical services may delegate such functions and duties vested in the director to the officers and employees of the office of statistical services as the director deems necessary and expedient.

SECTION 29. AMENDMENT. Subsection 4 of section 23-07-02.3 of the North Dakota Century Code is amended and reenacted as follows:

4. If the governor declares an emergency or a disaster based on an epidemic under chapter 37-17.1, the state health officer shall consider whether to issue a temporary order or the health council shall consider whether to adopt rules or emergency rules to include this

infectious disease as a reportable disease or condition or as a post-mortem communicable disease.

SECTION 30. AMENDMENT. Section 23-07-15 of the North Dakota Century Code is amended and reenacted as follows:

23-07-15. Removal of individual with reportable disease or condition - Removal of body of individual who died of reportable disease or condition - Prohibited - Declaration of emergency or disaster - Rulemaking authority.

- Unless the person has a permit from the local board of health or department of health and human services, a person may not remove or cause to be removed from without this state into this state, from one building to another within this state, or from or to any railroad car or motor vehicle, an individual with a reportable disease or condition, or the body of an individual who died of a reportable disease or condition.
- 2. If the governor declares an emergency or a disaster based on an epidemic under chapter 37-17.1, the health councildepartment of health and human services shall consider whether to adopt rules or emergency rules directing the department of health and human services to notify emergency medical services personnel of the presence of a reportable disease or condition and any person taking possession of a dead body of a post-mortem communicable disease. Notwithstanding state laws to the contrary, rules adopted under this section may provide for the disclosure of personally identifiable information.

SECTION 31. AMENDMENT. Section 23-07.2-01 of the North Dakota Century Code is amended and reenacted as follows:

23-07.2-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

- 1. "Hemophilia, "hemophilia" means a bleeding tendency resulting from a genetically determined deficiency or abnormality of a blood plasma factor or component.
- 2. "State health officer" means the state health officer as defined in this title.

SECTION 32. AMENDMENT. Section 23-09.4-08 of the North Dakota Century Code is amended and reenacted as follows:

23-09.4-08. Penalty.

- Any person who operates or manages a residential care facility for children with autism spectrum disorder without first obtaining a license as required by this chapter is guilty of a class B misdemeanor.
- 2. Any person who violates any provision of this chapter or any rule adopted under this chapter may be assessed a civil penalty not to exceed one thousand dollars for each violation and for each day the violation continues, plus interest and any costs incurred by the department to enforce this penalty. The civil penalty may be imposed by a court in a civil proceeding or by the state health officerdepartment through an administrative hearing under chapter 28-32. The assessment of a civil penalty does not preclude the imposition of other sanctions authorized by rules adopted under this chapter.

SECTION 33. AMENDMENT. Subsection 4 of section 23-10-03 of the North Dakota Century Code is amended and reenacted as follows:

4. The department shall waive the license fee for any mobile home park, recreational vehicle park, or campground owned by the state, a municipality, or a nonprofit organization. The department shall waive all or a portion of the license fee for any mobile home park, recreational vehicle park, or campground that is subject to local sanitation, safety, and inspection requirements accepted by the department under section 23-10-02.1. A prorated annual license fee may be charged for new mobile home parks, recreational vehicle parks, and campgrounds. The health councildepartment may adopt rules establishing the amount and the procedures for the collection of annual license fees. The fees must be based on the cost of reviewing construction plans, conducting routine and complaint inspections, reinspection, and necessary enforcement action. License fees collected pursuant to this section must be deposited in the department's operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly.

SECTION 34. AMENDMENT. Section 23-10-06 of the North Dakota Century Code is amended and reenacted as follows:

23-10-06. License issuance - Fee.

An applicant seeking licensure shall apply to the department on forms prescribed by the department. The applicant shall enclose with the application an application fee as determined by rule. The department shall issue a license to an applicant who meets all of the requirements of this chapter and any rules adopted by the health councildepartment.

SECTION 35. AMENDMENT. Subsection 2 of section 23-10-06.1 of the North Dakota Century Code is amended and reenacted as follows:

2. A license may be renewed by December thirty-first by submitting a renewal application, a renewal fee established rule, provided the licensee is in compliance with this chapter and any rules established by the health councildepartment.

SECTION 36. AMENDMENT. Section 23-10-12 of the North Dakota Century Code is amended and reenacted as follows:

23-10-12. Revocation of license - Penalty for operating without license.

The department may deny an application or take disciplinary action, up to and including revocation, against any applicant or licensee upon the failure of the applicant or licensee to comply with this chapter or with any of the rules adopted by the health council and regulations promulgated by the department. Before the department takes disciplinary action against a license, the department shall notify the licensee in writing of the reason disciplinary action is being considered and shall provide a reasonable amount of time for correction to be made. Action taken under the authority granted in this section must comply with chapter 28-32. Any person who maintains or operates a mobile home park, recreational vehicle park, or campground without first obtaining a license, or who operates the same after revocation of the license, is guilty of an infraction.

SECTION 37. AMENDMENT. Section 23-16-05 of the North Dakota Century Code is amended and reenacted as follows:

23-16-05. Inspections, consultations, and approval of plans.

The department of health and human services shall make or cause to be made such inspections as may be prescribed by regulation. The health councildepartment of health and human services may prescribe by regulations that any licensee or prospective applicant desiring to make a substantial alteration or addition to its facilities or to construct new facilities shall, before commencing such alteration, addition, or new construction, submit plans and specifications therefor to the department of health and human services for preliminary inspection, recommendation, and approval.

SECTION 38. AMENDMENT. Section 23-16-06 of the North Dakota Century Code is amended and reenacted as follows:

23-16-06. Authority to issue, deny, suspend, or revoke licenses.

- The department of health and human services shall issue licenses for the operation of institutions subject to this chapter which are found to comply with the provisions of this chapter and rules adopted by the department. The state health officer with the approval of the health council department of health and human services may, after a hearing, suspend or revoke licenses issued hereunder on any of the following grounds:
- 4. <u>a.</u> Violation of any of the provisions of this chapter or the rules and regulations promulgated pursuant thereto.
- 2. <u>b.</u> Permitting, aiding, or abetting the commission of any unlawful act.
- 3. <u>c.</u> Conduct or practices detrimental to the health or safety of patients and employees of said institutions; provided that this provision may not be construed to have any reference to practices authorized by law; and provided further that no license may be suspended or revoked for any trivial violation.
- 2. No application for a license may be denied, or any licenses suspended or revoked, except after a hearing before the health council held pursuant to written notice to the applicant or licensee, served by registered or certified mail, which notice must concisely state the grounds for such denial or for such proposed suspension or revocation and must fix the time and place of hearing which may not be less than thirty days after the date of the mailing of such notice. After such hearing, the council shall make an order, either denying the application for license or granting the same, or suspending or revoking such license, or dismissing the proceedings to suspend or revoke as the merits of the case warrant. The council shall send a copy of its order to the applicant or licensee by registered or certified mail, which must contain its findings and conclusions, and such order, except an order of dismissal, becomes final thirty days after the date of mailing unless the applicant or licensee appeals therefrom in the manner provided by section 23-16-10.

SECTION 39. AMENDMENT. Section 23-16-10 of the North Dakota Century Code is amended and reenacted as follows:

23-16-10. Appeal.

An appeal may be taken to the district court from any order of the state health officer or health council denying an application for a license to operate a medical hospital or related institution, or suspending or revoking a license, or from any order denying an application for a construction project. Any such appeal must be taken to the office of administrative hearings in the manner provided in chapter 28-32.

SECTION 40. AMENDMENT. Section 23-16-11 of the North Dakota Century Code is amended and reenacted as follows:

23-16-11. Penalties.

- 1. Any person establishing, conducting, managing, or operating any institution subject to this chapter, without first obtaining a license as required by this chapter, or who violates any of the provisions of this chapter is guilty of an infraction.
- 2. In addition to any criminal sanctions that may be imposed pursuant to law, any person maintaining or operating a nursing facility licensed by the department of health and human services who is found guilty of knowingly violating any provision of this title or any rules adopted under this title, or any person maintaining or operating a nursing facility found to have deficiencies during a survey of the nursing facility, may be assessed a civil penalty not to exceed one thousand dollars for each violation and for each day the violation continues plus interest and any costs incurred by the department of health and human services to enforce

this penalty. This civil penalty may be imposed by a court in a civil proceeding or by the state health officerdepartment of health and human services through an administrative hearing under chapter 28-32. If a civil penalty levied by the department of health and human services after an administrative hearing is not paid within thirty days after a final determination that a civil penalty is owed, unless the determination of a civil penalty is appealed to a district court, the civil penalty and any costs incurred by the department of health and human services to enforce the penalty may be withheld from payments due to the person or nursing facility from the department of health and human services. Any funds received as penalties must be applied to protect residents of the nursing facility, to relocate residents, to maintain operation of the nursing facility, and to reimburse residents for loss of personal funds.

SECTION 41. AMENDMENT. Section 23-17-08 of the North Dakota Century Code is amended and reenacted as follows:

23-17-08. Establishment of advisory committee.

The chiropractic board of examiners shall request the governor to appoint an advisory committee consisting of the executive directorcommissioner of the department of health and human services or designee, one chiropractic hospital superintendent, and one person interested in chiropractic hospitals. One member is to serve for three years, one for two, and one is to serve for one year from the date of their appointment or until their successors are duly appointed. Following this first appointment, the term of office must be for three years. This advisory committee shall act in an advisory capacity to the chiropractic board of examiners in dealing with matters pertaining to particular problems of chiropractic hospitals and sanatoriums and other related institutions.

SECTION 42. AMENDMENT. Section 23-17.6-01 of the North Dakota Century Code is amended and reenacted as follows:

23-17.6-01. Definitions.

In this chapter, unless the context and subject matter otherwise require:

- 1. "Department" means the department of health and human services.
- 2. "Extended stay center" means a facility that provides extended stay services.
- 3. "Extended stay services" means postsurgical and postdiagnostic medical and nursing services provided to a patient recovering from a surgical procedure performed in an ambulatory surgical center.
- 4. "Operating room" has the meaning given that term in rules adopted by the health-councildepartment.

SECTION 43. AMENDMENT. Section 23-17.6-02 of the North Dakota Century Code is amended and reenacted as follows:

23-17.6-02. Registration required - Rules.

A person may not conduct, maintain, or operate an extended stay center without a certificate of registration issued by the department. The health councildepartment shall adopt rules for the application, issuance, and renewal of a certificate of registration.

SECTION 44. AMENDMENT. Section 23-17.6-04 of the North Dakota Century Code is amended and reenacted as follows:

23-17.6-04. Standards of registration.

1. An extended stay center shall meet the following minimum standards for registration:

- a. Must be affiliated with one or more facilities certified by the centers for Medicare and Medicaid services as an ambulatory surgical center;
- b. Must have no more than two recovery beds for each operating room in the affiliated ambulatory surgical center, not to exceed a total of sixteen recovery beds;
- c. Shall discharge patients within forty-eight hours from the time of admission to the extended stay center;
- d. Shall conform to all patient safety and facility requirements adopted by the health-councildepartment by rule;
- e. Shall use admission criteria based only on the extended stay center's:
 - (1) Medical screening criteria;
 - (2) Evidence-based surgery guidelines; or
 - (3) Patient safety standards;
- f. Orally and in writing, shall clearly notify patients with Medicare coverage of the services provided by the extended stay center which are not covered by Medicare; and
- g. Shall report data and metrics to the department as prescribed by rule, including the:
 - (1) Types of procedures performed at the affiliated ambulatory surgical center for which patients are transferred to the extended stay center for recovery;
 - (2) Average duration of patient stays at the extended stay center;
 - (3) Medical acuity of the patients served by the extended stay center; and
 - (4) Frequency and cause of patient transfers from the extended stay center to a hospital.
- 2. An extended stay center only may accept a patient from an ambulatory surgical center. Each ambulatory surgical center must:
 - a. Be separated physically from the extended stay center operations;
 - Have demonstrated safe operating procedures in an outpatient surgery setting for no less than twenty-four consecutive months; and
 - c. Be certified by the centers for Medicare and Medicaid services as participating in the ambulatory surgical center quality reporting program administered by the centers for Medicare and Medicaid services.

SECTION 45. AMENDMENT. Section 23-17.6-06 of the North Dakota Century Code is amended and reenacted as follows:

23-17.6-06. Rulemaking.

The <u>health councildepartment</u> shall adopt necessary rules relating to the extended stay centers, including rules governing:

- 1. Licensure qualifications of professional and ancillary personnel;
- 2. Standards for the organization and quality of patient care performed at the extended stay center;

- 3. Procedures for maintaining records;
- 4. Procedures for application, issuance, and renewal of certificate of registration;
- 5. Procedures for denial, suspension, or revocation of certificate of registration; and
- 6. Reviews of registered extended stay centers.

SECTION 46. AMENDMENT. Section 23-17.7-03 of the North Dakota Century Code is amended and reenacted as follows:

23-17.7-03. License issuance and renewal - Evaluation and inspection - Rules.

- Upon receipt of an initial or renewal license application on forms established by the department, the department or the department's authorized representative shall evaluate and inspect the residential end-of-life facility. The department shall issue or renew a license for an applicant that submits a complete application, submits the appropriate fee, and meets the minimum requirements of this chapter.
- 2. In consultation with stakeholders, the state health council department shall adopt rules:
 - a. For the application, issuance, and renewal of a license under this chapter;
 - b. Establishing minimum standards for licensure of a residential end-of-life facility; and
 - c. Establishing the fee for issuance of a license and renewal of a license of a residential end-of-life facility.

SECTION 47. AMENDMENT. Section 23-23-03 of the North Dakota Century Code is amended and reenacted as follows:

23-23-03. Enforcement by health officerdepartment - Seizure - Inspection - Injunction.

It is the duty of the state health officerdepartment of health and human services to enforce the provisions of this chapter, and for that purpose the investigators, inspectors, representatives, and agents of the department of health and human services shall have the full power and authority of peace officers in this state, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, and to require the production of books, papers, documents, or other evidence. The state health officerdepartment of health and human services may institute, in its own name, proceedings to enjoin and restrain violations of this chapter, regardless of whether the defendant has been convicted of violation of the penal provisions thereof, and may not be required to pay any costs or filing fees or furnish any bond in connection therewith.

SECTION 48. AMENDMENT. Section 23-24-01 of the North Dakota Century Code is amended and reenacted as follows:

23-24-01. Definitions.

As used in this chapter unless the context or subject matter otherwise provides:

- 1. "Board" means the board of commissioners of a vector control district.
- 2. "District" means a vector control district established for the control of public health vectors.
- 3. "Department" means the department of health and human services.
- 3. "Health officer" means the state health officer.

- 4. "Potential or emergency health hazard" means a potential or existing infestation by public health vectors that is detrimental to human health and well-being.
- 5. "Public health vectors" means all species of mosquitoes and flies.

SECTION 49. AMENDMENT. Section 23-24-02 of the North Dakota Century Code is amended and reenacted as follows:

23-24-02. Petition for establishment of vector control districts - Hearing thereon and investigation - District when created.

Whenever there is filed with the state health councildepartment a petition signed by the governing body of a county, city, or township or by twenty percent or more of the freeholders within the limits of a proposed vector control district, the state health councildepartment shall fix a time and place for a public hearing on such petition. The place of hearing must be convenient and accessible for a majority of the freeholders of the proposed district. Not less than ten days prior to the date of hearing, notice thereof must be published in at least one newspaper of general circulation in the proposed district. Prior to such hearing the state health officerdepartment shall make or cause to be made an investigation of the need for the establishment of the proposed vector control district and shall submit his report to the councildepartment. If the state health councildepartment finds that it is not feasible, desirable, or practical to establish the proposed district, it shall make an order denying the petition and state therein the reasons for its action. If, however, the councildepartment finds the problems of vector control or other reasons make the establishment of the proposed district desirable, proper, and necessary, it shall grant the petition and create such district and establish the boundaries thereof.

SECTION 50. AMENDMENT. Section 23-24-02.1 of the North Dakota Century Code is amended and reenacted as follows:

23-24-02.1. Petition for withdrawing from a vector control district - Hearing and investigation - Boundary modification.

Any county, city, or township or portion of a county, city, or township may withdraw from a vector control district whenever a petition signed by the governing body of the county, city, or township or at least twenty percent of the residents of the county, city, or township, or portion thereof, desiring to withdraw from the district, is approved by the state health council department. Prior to approving a petition to withdraw from the district, the state health councildepartment shall fix a time and place for a public hearing on the petition. The place of the hearing must be convenient and accessible for a majority of the residents of the district. At least ten days prior to the date of the hearing, the state health council department shall publish a notice of the hearing in at least one newspaper of general circulation in the district. Prior to the hearing the state health officerdepartment shall investigate the petition to withdraw and shall submit a report to the council. If the state health councildepartment finds that it is not feasible, desirable, or practical to allow the petitioning entity to withdraw from the district, it shall make an order denying the petition and state the reasons for its action. If the council department finds that the petitioning entity is no longer benefited by being included within the boundaries of the district or if other reasons make the withdrawal of the petitioning entity desirable, proper, and necessary, it shall grant the petition and modify the boundaries of the district. No person may be a member of the board of commissioners if that person is no longer a resident of the vector control district after the boundaries have been modified. A new member must be appointed to replace any such member in the manner provided for original appointments.

SECTION 51. AMENDMENT. Section 23-24-06 of the North Dakota Century Code is amended and reenacted as follows:

23-24-06. Oath of office - Organization of board of commissioners - Appointment of employees - Meetings.

Upon receiving notice of appointment as a member of the board of commissioners of a vector control district, such appointee shall take the oath of office prescribed for civil officers. Such oath must

be filed with the secretary of the board after organization thereof as herein provided. Notice of the appointment of a member or members of a board of commissioners must be mailed to the governing body of the county, city, or township included within said district. Such notice must state the name and post-office address of each appointee and the date of the appointment and must request approval of the same. The commissioners appointed after their approval shall meet to organize at a time and place designated by the state health council department and shall organize by selecting a chairman of the board and naming a temporary secretary pending appointment of a permanent secretary. A majority of the commissioners constitutes a quorum for the transaction of business as may come before the board but any number may adjourn a meeting for want of a quorum. The board shall appoint a secretary and treasurer and such other employees as may be deemed needed for efficient conduct of the district's business and shall fix their compensation. The office of secretary and treasurer may be held by the same person. Officers and employees shall hold office during the pleasure of the board. The board shall provide an office suitable for its use as a meeting place and for conducting the affairs of the district. It shall adopt such rules or regulations for transacting the business of the district as it may deem necessary, including the time and place of holding regular meetings of the board. Special meetings may be called by the secretary on order of the chairman of the board or on written request of two members of the board. Notice of the special meeting must be mailed to each member of the board at least five days before any such meeting, provided that a special meeting may be held whenever all members of the board are present or consent thereto in writing.

SECTION 52. AMENDMENT. Section 23-27-03 of the North Dakota Century Code is amended and reenacted as follows:

23-27-03. License fees.

The fee for an emergency medical services operation license to operate an emergency medical services operation or a substation ambulance services operation must be set by the state health council at a sum of not more than twenty-five dollars annually, as may be required to defray the costs of administration of the licensing program. This operation license fee does not apply to licensure or certification of emergency medical services personnel. All license fees must be paid to the department of health and human services and deposited with the state treasurer and credited to the state general fund.

SECTION 53. AMENDMENT. Section 23-27-04.7 of the North Dakota Century Code is amended and reenacted as follows:

23-27-04.7. County reporting - Use of property tax levies.

The board of county commissioners of every county in this state shall conduct an annual review of the emergency medical services coverage within that county and shall submit an annual report to the state health officer in a format approved by the department of health and human services. A taxing district that levies a special emergency medical services or ambulance service levy shall allocate all of the special tax levy revenue collected in a particular township to the ambulance service that serves the largest area within that township.

SECTION 54. AMENDMENT. Subsection 3 of section 23-27-04.9 of the North Dakota Century Code is amended and reenacted as follows:

 Licensed or certified emergency medical services personnel may perform laboratory testing authorized by rule adopted by the health councildepartment.

SECTION 55. AMENDMENT. Section 23-35.1-02 of the North Dakota Century Code is amended and reenacted as follows:

23-35.1-02. Regional public health network - Joint powers agreement - Review by state-health officerdepartment - Criteria.

Before a group of public health units may be designated as a regional public health network and eligible for state funding, the state health officerdepartment shall review the joint powers agreement the public health units entered and verify that:

- The regional public health network consists of:
 - a. At least two public health units serving a minimum population of fifteen thousand; or
 - b. A minimum of three public health units.
- 2. The joint powers agreement requires that the participating public health units:
 - a. Assess the health of the population;
 - b. Identify workplan activities that meet the needs of the region;
 - c. Comply with requirements adopted by the health council by rule;
 - d. Meet department maintenance of effort funding requirements, which must be calculated based on each unit's dollar or mill levy public health unit contribution in the most recent calendar year; and
 - e. Share core public health activities and measure outcomes in accordance with subsection 3.
- 3. The joint powers agreement requires:
 - Evidence that network activities align with prevailing health status and community needs;
 - b. Shared or expanded services, including the core public health activities of:
 - (1) Preventing epidemics and spread of disease;
 - (2) Protecting against environmental hazards;
 - (3) Preventing injuries;
 - (4) Promoting health behaviors;
 - (5) Responding to disasters; and
 - (6) Assuring the quality and accessibility of health services;
 - c. Assurance of network performance measurement to demonstrate capacity, process, or health outcomes;
 - d. Criteria for the future participation of public health units that were not parties to the original joint powers agreement;
 - e. An application process by which public health units that were not parties to the original joint powers agreement may become participating districts; and
 - f. A process by which public health units that were not parties to the original joint powers agreement may appeal a decision to deny an application to participate in the agreement to the state health officerdepartment.
- 4. The joint powers agreement provides for the structure of the governing body of the network.

SECTION 56. AMENDMENT. Section 23-35.1-03 of the North Dakota Century Code is amended and reenacted as follows:

23-35.1-03. Regional public health network - Annual plan.

A regional public health network shall prepare an annual plan regarding the provision of the core public health activities and shall submit the plan to the state health officerdepartment for approval.

SECTION 57. AMENDMENT. Section 23-36-08 of the North Dakota Century Code is amended and reenacted as follows:

23-36-08. Limitation on liability.

Subject to any other requirements of section 32-12.2-02, the owner of an animal may bring a claim for money damages, and may recover an amount up to the replacement value of the animal, if the owner establishes that before the animal was seized and tested for rabies under this chapter, the state health officer, or the state health officer's designeedepartment, knew or recklessly failed to determine that the animal, at the time of the exposure, was lawfully owned and licensed and that:

- 1. The animal had not bitten, scratched, or otherwise possibly exposed another animal or an individual to rabies; or
- 2. The animal was a domestic animal and there was not probable cause to believe the animal was rabid.

SECTION 58. AMENDMENT. Subsection 1 of section 23-38.1-02 of the North Dakota Century Code is amended and reenacted as follows:

1. The department of health and human services shall establish a cardiac ready community grant program advisory committee with members appointed by the executive director commissioner of the department of health and human services or designee. The advisory committee shall advise the department of health and human services in the development of the cardiac ready community grant program and the membership must include a representative of the department of health and human services, one cardiac ready community member, one representative of the emergency medical services association, one representative of the American heart association, one representative of the cardiac task force, one representative of the stroke task force, one representative of the emergency services advisory committee, one survivor advocate, and the department of health and human services emergency medical services and trauma medical director.

SECTION 59. AMENDMENT. Section 23-43-01 of the North Dakota Century Code is amended and reenacted as follows:

23-43-01. Stroke system - Duties of state health officer.

The state health officerdepartment of health and human services shall establish and maintain a comprehensive stroke system for the state. The program must comply with this chapter; be based on department-approved, nationally recognized guidelines and protocols; and provide specific patient care and support services criteria stroke centers shall meet to ensure stroke patients receive safe and effective care, and must modify the state's emergency medical response system to assure stroke patients are quickly identified and transported to and treated in facilities that have specialized programs for providing timely and effective treatment for stroke patients. The stroke system must include standards for the following components:

- 1. A system plan.
- 2. Prehospital emergency medical services.
- 3. Hospitals, for which the standards must include:

- a. Standards for designation, redesignation, and removal of designation.
- b. Standards for evaluation and quality improvement programs for designated facilities. The standards must require each facility to collect quality improvement data and to provide specified portions to the department of health and human services for use in state and regional stroke quality improvement programs.
- 4. A stroke registry. Data in the stroke registry is not subject to subpoena or discovery or introduction into evidence in any civil action. A designated facility shall participate in the stroke registry. A hospital not designated shall provide to the stroke registry a minimum set of data elements for all stroke patients as determined by the stroke system of care advisory task force.
- 5. A stroke quality improvement program to monitor the performance of the stroke system. The proceedings and records of the stroke quality improvement program are not subject to subpoena or discovery or introduction into evidence in any civil action arising out of any matter that is the subject of consideration by the stroke quality improvement program.

SECTION 60. AMENDMENT. Subsection 3 of section 23-43-05 of the North Dakota Century Code is amended and reenacted as follows:

3. The stroke system of care task force shall make recommendations to the department of health and human services and health council. Upon receiving such recommendations, the department of health and human services may adopt rules implementing the recommendations.

SECTION 61. AMENDMENT. Section 23-46-02 of the North Dakota Century Code is amended and reenacted as follows:

23-46-02. Emergency medical services advisory council.

- 1. The department of health and human services shall establish an emergency medical services advisory council.
- 2. The council must include at:
 - <u>a.</u> <u>At</u> least three representatives appointed by an emergency medical services organization, one;
 - <u>b.</u> <u>One</u> individual to represent basic life support and one, appointed by the commissioner of the department of health and human services or designee;
 - <u>one</u> individual to represent advanced life support, both appointed by the executive director commissioner of the department of health and human services or designee, and other; and
 - <u>d.</u> <u>Other</u> members designated by the <u>executive directorcommissioner</u> of the department of health and human services or designee, not to exceed a total of fourteen members.
- <u>3.</u> The department of health and human services and the state health officer shall consider the recommendations of the council on the:
 - <u>a.</u> <u>The plan for integrated emergency medical services in the state, development:</u>
 - <u>b.</u> <u>Development</u> of emergency medical services funding areas, <u>development</u>;
 - <u>c.</u> <u>Development</u> of the emergency medical services funding areas application process and budget criteria, and other

- <u>d.</u> <u>Other</u> issues relating to emergency medical services as determined by the <u>executive</u> <u>directorcommissioner</u> of the department of health and human services <u>or designee</u> or the state health officer.
- 4. Council members are entitled to reimbursement for expenses in the manner provided in section 44-08-04. The department of health and human services shall establish by policy the length of terms and the method for rotation of membership.

SECTION 62. AMENDMENT. Subsection 1 of section 23-47-03 of the North Dakota Century Code is amended and reenacted as follows:

1. The executive directorcommissioner of the department of health and human services or designee shall appoint the members of the acute cardiovascular emergency medical system of care advisory committee. The state health officer, or the officer's designee, is an ex officion member of the advisory committee. The executive directorcommissioner of the department of health and human services or designee shall appoint to the committee members who represent referring and receiving hospitals, physicians who treat patients, and members who represent emergency medical services operations that provide services in rural and urban areas of the state. Members of the acute cardiovascular emergency medical system of care advisory committee serve at the pleasure of the executive directorcommissioner of the department of health and human services.

SECTION 63. AMENDMENT. Subsection 7 of section 25-01-01 of the North Dakota Century Code is amended and reenacted as follows:

7. "Supervising officer" means the <u>executive directorcommissioner</u> of the department of health and human services <u>or designee</u> or the superintendent of public instruction, as the case may be.

SECTION 64. AMENDMENT. Subsection 1 of section 25-01-01.1 of the North Dakota Century Code is amended and reenacted as follows:

- 1. There must be maintained in the department of health and human services a state council on developmental disabilities consisting of:
 - a. One representative of each of the following departments, divisions, institutions, and organizations designated by the head of such agency or organization:
 - (1) Office of superintendent of public instruction.
 - (2) Job service North Dakota.
 - b. Three representatives of the department of health and human services to include at least:
 - (1) One representative from the life skills and transition center designated by its superintendent; and
 - (2) One representative from the department's <u>public</u> health division.

SECTION 65. AMENDMENT. Subsection 3 of section 25-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

3. The governing body must be composed of the executive director commissioner of the department of health and human services or designee; the director of the division of behavioral health of the department or designee, who shall serve as chairman of the governing body; the state hospital superintendent; the state hospital medical director; a representative of the department's fiscal administration division; a behavioral health consumer selected by the mental health association; and a legislator selected by the legislative

management. The governing body may include other persons as appointed by the governing body.

SECTION 66. AMENDMENT. Section 25-03.1-34.1 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-34.1. Exchange of individuals with a substance use disorder.

The <u>directorcommissioner</u> of the department of health and human services <u>or designee</u>, a county, a city, or a local law enforcement agency may enter into reciprocal agreements with the appropriate authorities of any other state regarding the mutual exchange, return, and transportation of individuals with a mental illness or substance use disorder who are treated or confined in hospitals of one state for treatment of a substance use disorder or mental illness but who have legal residence in another state.

SECTION 67. AMENDMENT. Section 25-03.3-01 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-01. Definitions.

In this chapter, unless the context otherwise requires:

- 1. "Committed individual" means an individual committed for custody and treatment pursuant to this chapter.
- 2. "Executive director" means the executive director of the department of health and human services or the executive director's designee.
- 3. "Intellectual disability" means mental retardation as defined in the "Diagnostic and Statistical Manual of Mental Disorders", American psychiatric association, (4th edition, text revision 2000).
- 4.3. "Qualified expert" means an individual who has an expertise in sexual offender evaluations and who is a psychiatrist or psychologist trained in a clinical program and licensed pursuant to this state's law or a psychologist approved for exemption by the North Dakota board of psychologist examiners. For purposes of evaluating an individual with an intellectual disability, the qualified expert must have specialized knowledge in sexual offender evaluations of individuals with an intellectual disability.
- 5.4. "Respondent" means an individual subject to a commitment proceeding pursuant to this chapter.
- 6.5. "Sexual act" means sexual contact between human beings, including contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or the vulva and the vulva; or the use of an object that comes in contact with the victim's anus, vulva, or penis. Sexual contact between the penis and the vulva, or between the penis and the anus, or an object and the anus, vulva, or penis of the victim, occurs upon penetration, however slight. Emission is not required.
- 7.6. "Sexual contact" means any touching of the sexual or other intimate parts of an individual for the purpose of arousing or satisfying sexual or aggressive desires.
- 8.7. "Sexually dangerous individual" means an individual who is shown to have engaged in sexually predatory conduct and who has a congenital or acquired condition that is manifested by a sexual disorder, a personality disorder, or other mental disorder or dysfunction that makes that individual likely to engage in further acts of sexually predatory conduct which constitute a danger to the physical or mental health or safety of others. It is a rebuttable presumption that sexually predatory conduct creates a danger to the physical or mental health or safety of the victim of the conduct. For these purposes, intellectual disability is not a sexual disorder, personality disorder, or other mental disorder or dysfunction.

- 9.8. "Sexually predatory conduct" means:
 - a. Engaging or attempting to engage in a sexual act or sexual contact with another individual, or causing or attempting to cause another individual to engage in a sexual act or sexual contact, if:
 - (1) The victim is compelled to submit by force or by threat of imminent death, serious bodily injury, or kidnapping directed toward the victim or any human being, or the victim is compelled to submit by any threat or coercion that would render a person reasonably incapable of resisting;
 - (2) The victim's power to appraise or control the victim's conduct has been substantially impaired by the administration or employment, without the victim's knowledge, of intoxicants or other means for purposes of preventing resistance;
 - (3) The actor knows or should have known that the victim is unaware that a sexual act is being committed upon the victim;
 - (4) The victim is less than fifteen years old;
 - (5) The actor knows or should have known that the victim has a disability that substantially impairs the victim's understanding of the nature of the sexual act or contact;
 - (6) The victim is in official custody or detained in a treatment facility, health care facility, correctional facility, or other institution and is under the supervisory authority, disciplinary control, or care of the actor;
 - (7) The victim is a minor and the actor is an adult; or
 - (8) The other individual is a person related to the actor within a degree of consanguinity within which marriages are declared incestuous and void by section 14-03-03 and the actor knows that: or
 - b. Engaging in or attempting to engage in sexual contact with another individual or causing or attempting to cause another individual to have sexual contact, if:
 - (1) The actor knows or should have known that the contact is offensive to the victim; or
 - (2) The victim is a minor, fifteen years of age or older, and the actor is the minor's parent, guardian, or is otherwise responsible for general supervision of the victim's welfare.
- 40.9. "Should have known" means a reasonable individual without a congenital or acquired condition that is manifested by a sexual disorder, a personality disorder, or other mental disorder or dysfunction in the actor's circumstances would have known.
- 41.10. "Superintendent" means the superintendent of the state hospital or the superintendent's designee.
- "Treatment facility" means any hospital, including the state hospital, or any treatment facility, including the life skills and transition center, which can provide directly, or by direct arrangement with other public or private agencies, evaluation and treatment of sexually dangerous individuals.

SECTION 68. AMENDMENT. Section 25-03.3-12 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-12. Sexually dangerous individual - Evaluation.

The evaluation must be conducted by one or more experts chosen by the executive—director_commissioner. Whenever a respondent is subject to an evaluation pursuant to this chapter, the respondent may retain an expert to perform an evaluation or testify on the respondent's behalf. When the respondent is an adult with an intellectual disability and a guardian or guardian ad litem has not been appointed for the respondent, the court shall appoint an expert to perform an evaluation on behalf of the respondent. In the case of a respondent who is indigent, the court shall appoint a qualified expert to perform an examination or participate in the commitment proceeding on the respondent's behalf. The department of health and human services shall compensate any qualified expert appointed by the court on behalf of an indigent respondent in a reasonable amount based on time and expenses. An expert retained on behalf of the respondent must have reasonable access to the respondent for the purpose of the examination and to all relevant medical, psychological, and court records and reports.

SECTION 69. AMENDMENT. Section 25-03.3-13 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-13. Sexually dangerous individual - Commitment proceeding - Report of findings.

Within sixty days after the finding of probable cause, the court shall conduct a commitment proceeding to determine whether the respondent is a sexually dangerous individual. The court may extend the time for good cause. At the commitment proceeding, any testimony and reports of an expert who conducted an examination are admissible, including risk assessment evaluations. Any proceeding pursuant to this chapter must be tried to the court and not a jury. At the commitment proceeding, the state's attorney shall present evidence in support of the petition and the burden is on the state to show by clear and convincing evidence that the respondent is a sexually dangerous individual. An individual may not be committed unless expert evidence is admitted establishing that the individual has a congenital or acquired condition that is manifested by a sexual disorder, a personality disorder, or other mental disorder or dysfunction that makes that individual likely to engage in further acts of sexually predatory conduct. The respondent has a right to be present, to testify, and to present and cross-examine witnesses. If the respondent is found to be a sexually dangerous individual, the court shall commit the respondent to the care, custody, and control of the executive directorcommissioner. The executive directorcommissioner shall place the respondent in an appropriate facility or program at which treatment is available. The appropriate treatment facility or program must be the least restrictive available treatment facility or program necessary to achieve the purposes of this chapter. The executive directorcommissioner may not be required to create a less restrictive treatment facility or treatment program specifically for the respondent or committed individual. Unless the respondent has been committed to the legal and physical custody of the department of corrections and rehabilitation, the respondent may not be placed at and the treatment program for the respondent may not be provided at the state penitentiary or an affiliated penal facility. If the respondent is found not to be a sexually dangerous individual, the court shall discharge the respondent.

SECTION 70. AMENDMENT. Section 25-03.3-14 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-14. Interagency placement.

If a committed individual also has been committed to the legal and physical custody of the department of corrections and rehabilitation, the director of the department of corrections and rehabilitation and the executive director commissioner may consult one another and determine the appropriate placement of the individual and may transfer the individual between placements.

SECTION 71. AMENDMENT. Section 25-03.3-17 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-17. Postcommitment proceeding, discharge, and further disposition.

- 1. A committed individual must remain in the care, custody, and control of the executivedirectorcommissioner until, in the opinion of the executive directorcommissioner, the individual is safe to be at large.
- 2. Each committed individual must have an examination of that individual's mental condition at least once a year. A report regarding the examination must be provided to the court that committed the individual. At the time of the annual examination, the committed individual has the right to have an expert examine the individual, and, upon the request of an indigent committed individual, the court shall appoint a qualified expert to examine the committed individual and report to the court. The department of health and human services shall compensate a qualified expert appointed by the court in a reasonable amount based on time and expenses. That expert must have reasonable access to the committed individual and to all records relating to the committed individual, including confidential records.
- 3. If a committed individual has been committed to an out-of-state facility by the executive-directorcommissioner for purposes of treatment, an expert from that state may be appointed by the court as a qualified expert for an indigent committed individual for any postcommitment proceeding.
- 4. After any report pursuant to this section is provided to the court, the court may order further examination and investigation of the committed individual as the court considers necessary. The court may set the matter for a hearing. At the hearing, the committed individual is entitled to be present and to the benefit of the protections afforded at the commitment proceeding. The state's attorney shall represent the state at the hearing. After the hearing, the court shall determine whether the committed individual is to be discharged or to be retained as a sexually dangerous individual in the care, custody, and control of the executive directorcommissioner.
- 5. The executive director commissioner may only discharge a sexually dangerous individual from commitment pursuant to a court order. The executive director commissioner may petition the committing court at any time for the discharge of the committed individual. The executive director commissioner shall give the state's attorney notice of any petition for discharge the executive director commissioner files with the court. Before the petition is granted, the state's attorney has the right to be heard by the court on the petition. The state's attorney may waive this right.
- 6. If the executive director commissioner moves a committed individual from a placement in the community to a placement in a secure treatment facility that is more restrictive, the committed individual may challenge the move at a hearing to be held within thirty days after the move in accordance with procedures established by the department of health and human services.

SECTION 72. AMENDMENT. Section 25-03.3-18 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-18. Petition for discharge - Notice.

1. Annually, the <u>executive directorcommissioner</u> shall provide the committed individual with written notice that the individual has a right to petition the court for discharge. The notice must explain to the committed person when the committed person has a right to a hearing on the petition. The notice must inform the committed person of the rights this chapter affords the committed person at a discharge hearing. The <u>executive directorcommissioner</u> shall forward a copy of the notice to the committing court. If the committed individual is an individual with an intellectual disability, the <u>executive directorcommissioner</u> shall also provide the written notice to the individual's attorney, guardian, and guardian ad litem, if any.

- 2. If the committed individual files a petition for discharge and has not had a hearing pursuant to section 25-03.3-17 or this section during the preceding twelve months, the committed individual has a right to a hearing on the petition.
- 3. At the hearing on the petition for discharge, the committed individual is entitled to be present and to the benefit of the protections afforded at the commitment proceeding. The state's attorney shall represent the state and may have the committed individual evaluated by experts chosen by the state. The committed individual is entitled to have an expert of the committed individual's choice conduct an evaluation. The court shall appoint a qualified expert if the committed individual is indigent and requests an appointment. The department of health and human services shall compensate a qualified expert appointed by the court in a reasonable amount based on time and expenses. That expert must have reasonable access to the committed individual and to all records relating to the committed individual, including confidential records.
- 4. At any hearing held pursuant to a petition for discharge, the burden of proof is on the state to show by clear and convincing evidence that the committed individual remains a sexually dangerous individual.

SECTION 73. AMENDMENT. Section 25-03.3-18.1 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-18.1. Annual review - Petition for discharge - Inapplicability during periods of imprisonment.

Sections 25-03.3-17 and 25-03.3-18 do not apply if a respondent, during a period of commitment under this chapter, is transferred to the custody of the department of corrections and rehabilitation in accordance with section 29-27-07 or is serving a term of imprisonment in a county jail or regional corrections center. Upon release from imprisonment, the respondent must be retransferred to the care, custody, and control of the executive director commissioner. Upon retransfer, the respondent is entitled to a review to determine whether continued commitment under this chapter is warranted.

SECTION 74. AMENDMENT. Section 25-03.3-24 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-24. Postcommitment community placement - Penalty.

- 1. Following commitment of a sexually dangerous individual, the executive director commissioner may conduct a risk management assessment of the committed individual for the purpose of determining whether the individual may be treated safely in the community on an outpatient basis. The executive director commissioner may place a committed individual in the community for treatment on an outpatient basis only pursuant to a court order. The executive director commissioner may petition the court at any time for community placement. The executive director commissioner shall give the state's attorney of the county of community placement notice of any petition for community placement the executive director commissioner files with the court. Before the petition is granted, the state's attorney has the right to be heard by the court. The state's attorney may waive this right. At any hearing held pursuant to a petition by the executive director commissioner for the community placement of a committed individual, the burden of proof required of the executive director commissioner is a preponderance of the evidence. The court's order of community placement must contain appropriate restrictions and requirements for the committed individual, including:
 - a. Participation and compliance with a specific course of treatment;
 - b. Submission to electronic monitoring and any other appropriate supervision;
 - c. Prohibition of the individual changing place of residency or leaving the state without prior authorization of the court;

- d. Establishment of safety zones, and compliance by the committed individual with those safety zones;
- e. Requirement that the committed individual notify the court within twenty-four hours of any change in the individual's status that affects proper treatment or supervision;
- f. Contact with victims is prohibited independent of a supervised treatment plan; and
- g. Any other restriction or requirement deemed necessary by the court to assure public safety and proper treatment of the committed individual.
- 2. Violation by a committed individual of a court order issued pursuant to this section is a class C felony.

SECTION 75. AMENDMENT. Section 25-04-08.1 of the North Dakota Century Code is amended and reenacted as follows:

25-04-08.1. Notification before discharge.

Before discharge the superintendent shall consult with the parent or guardian of the person to be discharged, or with the court that ordered the commitment, and shall notify the director of the county social service board or human service zone of the county in which it is proposed that such person will assume residence and also shall notify the executive director of the department of health and human services <u>or designee</u>.

SECTION 76. AMENDMENT. Section 25-11-02 of the North Dakota Century Code is amended and reenacted as follows:

25-11-02. Compact administrator - Powers.

Pursuant to said compact, the <u>executive directorcommissioner</u> of the department of health and human services <u>or designee</u> must be the compact administrator and who, acting jointly with like officers of other party states, may adopt rules to carry out more effectively the terms of the compact. The compact administrator shall cooperate with all departments, agencies, and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or any supplementary agreement or agreements entered into by this state thereunder.

SECTION 77. AMENDMENT. Subsection 2 of section 37-17.4-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Emergency" means an event or condition that is a disaster or an emergency as defined under chapter 37-17.1 and any event, condition, or incident for which the deployment of volunteer health practitioners is determined to be necessary by the state health officer department of health and human services, a local board of health, or the state veterinarian.

SECTION 78. AMENDMENT. Section 43-10-02 of the North Dakota Century Code is amended and reenacted as follows:

43-10-02. State board of funeral service - Members - Appointment - Qualifications - Term of office - Oath - Vacancies - Removal.

The board consists of the state health officer or designee and three persons appointed by the governor. Each member appointed by the governor shall serve for a term of four years and until a successor is appointed and qualified. The terms of office of the appointed members expire on the thirtieth day of June and must be so arranged that only one expires in any one year. The appointed members of the board must be persons practicing embalming in this state and must have practiced for a minimum of three years in North Dakota. Each member shall qualify by taking the oath of office required of civil officers. The secretary of state may administer the oath and it must be filed in the office

of the secretary of state. A vacancy on the board must be filled by appointment by the governor for the unexpired term. The governor may remove any member of the board for good cause.

SECTION 79. AMENDMENT. Section 43-12.3-01 of the North Dakota Century Code is amended and reenacted as follows:

43-12.3-01. Student loan repayment programs - Health care professionals.

The health councildepartment of health and human services shall administer student loan repayment programs, as established by this chapter, for health care professionals willing to provide services in areas of this state that have a defined need for such services.

SECTION 80. AMENDMENT. Section 43-12.3-02 of the North Dakota Century Code is amended and reenacted as follows:

43-12.3-02. Application process.

The health council<u>department of health and human services</u> shall develop an application process for public and private entities seeking to fill health care needs and for health care professionals willing to provide necessary services in exchange for benefits under a student loan repayment program.

SECTION 81. AMENDMENT. Section 43-12.3-03 of the North Dakota Century Code is amended and reenacted as follows:

43-12.3-03. Public and private entities - Selection criteria - Matching funds.

- 1. The health councildepartment of health and human services shall establish criteria to be used in selecting public and private entities for participation in a program. The criteria must include:
 - a. The number of health care professionals, by specified field, already providing services in the area;
 - b. Access to health care services in the area; and
 - c. The level of support from the area.
- 2. The health councildepartment of health and human services may consult with health care and social service providers, advocacy groups, governmental entities, and others in establishing criteria and evaluating needs based on the criteria.
- An entity may not be selected for participation unless it contractually commits to provide matching funds equal to the amount required for a loan repayment program in accordance with section 43-12.3-06.

SECTION 82. AMENDMENT. Section 43-12.3-04 of the North Dakota Century Code is amended and reenacted as follows:

43-12.3-04. Public and private entities - Eligibility for participation - Priority.

In selecting public and private entities for participation in a program the health council department of health and human services shall give priority to an entity that:

- Meets the selection criteria;
- 2. Is located in an area that is statistically underserved; and
- 3. Is located at least twenty miles [32.18 kilometers] outside the boundary of a city having more than forty thousand residents.

SECTION 83. AMENDMENT. Section 43-12.3-05 of the North Dakota Century Code is amended and reenacted as follows:

43-12.3-05. Health care professionals - Selection criteria.

- 1. The health councildepartment of health and human services shall establish criteria to be used in selecting health care professionals for participation in a student loan repayment program. The criteria must include:
 - a. The health care professional's specialty;
 - b. The need for the health care professional's specialty within an area;
 - c. The health care professional's education and experience;
 - d. The health care professional's date of availability and anticipated term of availability; and
 - e. The health care professional's willingness to accept Medicare and Medicaid assignments, if applicable.
- 2. In selecting health care professionals for participation in the program the health councildepartment of health and human services shall require that the individual:
 - a. Is physically present at and provides services on a full-time basis to an entity that meets the requirements of section 43-12.3-04; or
 - b. (1) Is physically present at and provides services on at least a half-time basis to an entity that meets the requirements of section 43-12.3-04;
 - (2) Provides telehealth services to a second entity that meets the requirements of section 43-12.3-04; and
 - (3) Verifies that the services provided under paragraphs 1 and 2 are equal to the full-time requirement of subdivision a.
- In selecting health care professionals for participation in a program, the health council department of health and human services may consider an individual's:
 - a. Length of residency in this state; and
 - b. Attendance at an in-state or an out-of-state institution of higher education.

SECTION 84. AMENDMENT. Section 43-12.3-06 of the North Dakota Century Code is amended and reenacted as follows:

43-12.3-06. Student loan repayment program - Contract.

- 1. The health councildepartment of health and human services shall enter a contract with a selected health care professional. The health councildepartment of health and human services shall agree to provide student loan repayments on behalf of the selected health care professional subject to the requirements and limitations of this section.
 - a. For a physician:
 - (1) The loan repayment may not exceed twenty thousand dollars per year, and may not exceed one hundred thousand dollars over five years; and
 - (2) The matching funds must equal fifty percent of the amount required in paragraph 1.
 - b. For a clinical psychologist:

- (1) The loan repayment may not exceed twelve thousand dollars per year, and may not exceed sixty thousand dollars over five years; and
- (2) The matching funds must equal twenty-five percent of the amount required in paragraph 1.
- c. For an advanced practice registered nurse or a physician assistant:
 - (1) The loan repayment may not exceed four thousand dollars per year, and may not exceed twenty thousand dollars over five years; and
 - (2) The matching funds must equal ten percent of the amount required in paragraph 1.
- d. For a behavioral health professional:
 - (1) The loan repayment may not exceed four thousand dollars per year, and may not exceed twenty thousand dollars over five years; and
 - (2) The matching funds must equal ten percent of the amount required in paragraph 1.
- e. For purposes of this section, a behavioral health professional means an individual who practices in the behavioral health field and is:
 - (1) A licensed addiction counselor;
 - (2) A licensed professional counselor;
 - A licensed social worker;
 - (4) A registered nurse;
 - (5) A specialty practice registered nurse; or
 - (6) A licensed behavior analyst.
- 2. a. Payments under this section must be made on behalf of the health care professional directly to the Bank of North Dakota or to another participating lending institution.
 - b. Except as otherwise provided, payments under this section may be made only at the conclusion of each twelve month period of service.
 - c. Prorated payments may be made only if:
 - (1) The repayment of the loan requires less than a full annual payment;
 - (2) The health care professional is terminated or resigns from his or her position; or
 - (3) The health care professional is unable to complete a twelve-month period of service due to the individual's death, a certifiable medical condition or disability, or a call to military service.
- 3. Payments under this section terminate upon the earlier of:
 - a. The full repayment of the health care professional's student loan; or
 - b. The completion of five years as a participant in the student loan repayment program.
- 4. The health councildepartment of health and human services shall waive the requirements of this section that pertain to matching funds if the health care professional opens a new practice as a solo practitioner in a city that has fewer than fifteen thousand residents.

SECTION 85. AMENDMENT. Section 43-12.3-07 of the North Dakota Century Code is amended and reenacted as follows:

43-12.3-07. Powers of the health councildepartment - Continuing appropriation.

- 1. The health council department of health and human services may:
 - a. Receive and expend any gifts, grants, and other funds for the purposes of this program;
 - b. Participate in any federal programs providing for the repayment of student loans on behalf of health care professionals; and
 - c. Do all things necessary and proper for the administration of this chapter.
- 2. All moneys received by the health councildepartment of health and human services under this section are appropriated to the health councildepartment of health and human services on a continuing basis, to be used exclusively for the purposes of this chapter.

SECTION 86. AMENDMENT. Subsection 14 of section 43-15-10 of the North Dakota Century Code is amended and reenacted as follows:

14. To adopt, amend, and repeal rules determined necessary by the board for the proper administration and enforcement of this chapter, chapter 19-02.1 as that chapter pertains to drugs, subject to approval of the <u>directorcommissioner</u> of the department of health and human services or designee, and chapter 19-03.1.

SECTION 87. AMENDMENT. Section 43-28.1-01 of the North Dakota Century Code is amended and reenacted as follows:

43-28.1-01. Loan repayment program - Dentists - Defined need - Maximum amount of funds.

Annually, the state health councildepartment of health and human services shall select, from a pool of applicants, dentists who will provide dental services in cities or surrounding areas, or both, in this state which the state health councildepartment of health and human services identifies as having a defined need for dental services. The dentists selected from this pool of applicants shall agree to accept medical assistance patients and assignments or provide dental services in a public health clinic, a practice with a focus on an underserved population, or a nonprofit dental clinic. A selected dentist who agrees to the terms of this program is eligible to receive funds for the repayment of the dentist's education loans. The funds, which are payable over a five-year period, may not exceed one hundred thousand dollars per applicant. If the state health councildepartment of health and human services accepts any gifts, grants, or donations under this chapter, the councildepartment of health and human services may select additional dentists for participation in the loan repayment program under this chapter.

SECTION 88. AMENDMENT. Section 43-28.1-03 of the North Dakota Century Code is amended and reenacted as follows:

43-28.1-03. Criteria.

- 1. The health councildepartment of health and human services shall establish criteria to be used in selecting qualified dentists and in identifying cities or surrounding areas, or both, that have a defined need for dental services. The criteria must include consideration of:
 - a. The number of dentists already providing dental services in the city or surrounding areas, or both:
 - b. Access to dental services in the city and the surrounding areas;

- How the dentist will provide dental services to individuals on medical assistance or in a public health clinic, a practice with a focus on an underserved population, or a nonprofit dental clinic; and
- d. The dentist's training in general dentistry or in a dental specialty and the extent to which such services are needed in the identified city or surrounding areas, or both.
- 2. As a term of receipt of funds under this chapter, a dentist shall accept medical assistance patients and assignments or provide dental services in a public health clinic, a practice with a focus on an underserved population, or a nonprofit dental clinic. For purposes of a dentist selected for loan payment under this chapter who practices within fifteen miles [24.14 kilometers] of the city limits of one of the three largest cities in the state, to qualify to receive a yearly disbursement under this chapter during that year of obligated service, the dentist must have:
 - a. Received dental medical payments of at least twenty thousand dollars in the form of medical assistance reimbursement; or
 - b. Practiced at least two full workdays per week at a public health clinic or at a nonprofit dental clinic that uses a sliding fee schedule to bill the nonprofit dental clinic's patients.
- 3. The <u>health councildepartment of health and human services</u> may consult with public and private sector entities in establishing criteria and evaluating needs based on the criteria.

SECTION 89. AMENDMENT. Section 43-28.1-05 of the North Dakota Century Code is amended and reenacted as follows:

43-28.1-05. Eligible loans.

The state health councildepartment of health and human services may provide for loan repayment funds to a dentist who has received an education loan. The councildepartment of health and human services may not provide funds for the repayment of any loan that is in default at the time of the application. The amount of repayment must be related to the dentist's outstanding education loans. A dentist is eligible to receive loan repayment funds in an amount equal to the outstanding balance of the dentist's education loans with applicable interest, or one hundred thousand dollars, whichever is less. Loan repayment funds may not be used to satisfy other service obligations under similar programs.

SECTION 90. AMENDMENT. Section 43-28.1-07 of the North Dakota Century Code is amended and reenacted as follows:

43-28.1-07. Contract obligation.

The state health councildepartment of health and human services shall enter a contract with a selected dentist. The contract must provide the state health councildepartment of health and human services agrees to make payments of loan repayment funds to the selected dentist, subject to the dentist meeting the requirements and limitations established by the state health councildepartment of health and human services under this chapter.

SECTION 91. AMENDMENT. Section 43-28.1-08 of the North Dakota Century Code is amended and reenacted as follows:

43-28.1-08. Payment - Termination.

 The state health councildepartment of health and human services may not provide any loan repayment funds to a dentist under this chapter until the dentist has practiced at least six months on a full-time basis in the city or surrounding areas, or both, the state health councildepartment of health and human services has identified as having a defined need for dental services.

- 2. Except as otherwise provided, the state health councildepartment of health and human services shall make payments under this chapter at the conclusion of each of the five twelve-month periods of service during which the dentist met the qualifying terms of the contract. The state health councildepartment of health and human services may make a prorated payment under this chapter if during the twelve-month period the dentist failed to meet the qualifying terms of the contract.
- 3. Payments under this chapter terminate upon the earlier of completion of five years as a participant in this loan repayment program or failure of the dentist to meet the qualifying terms under the contract.

SECTION 92. AMENDMENT. Section 43-28.1-09 of the North Dakota Century Code is amended and reenacted as follows:

43-28.1-09. Gifts, grants, and donations - Continuing appropriation.

The state health councildepartment of health and human services may accept any conditional or unconditional gift, grant, or donation for the purpose of providing funds for the repayment of dentists' educational loans. If any entity desires to provide funds to the eouncildepartment of health and human services to allow an expansion of the program beyond the dentists contemplated by this chapter, the entity shall commit to fund fully the expansion for a period of five years. The eouncildepartment of health and human services may contract with any public or private entity and may expend any moneys available to the eouncildepartment of health and human services to obtain matching funds for the purposes of this chapter. All money received as gifts, grants, or donations under this section is appropriated as a continuing appropriation to the state health councildepartment of health and human services for the purpose of providing funds for the repayment of additional dentists' educational loans.

SECTION 93. AMENDMENT. Section 43-29.1-01 of the North Dakota Century Code is amended and reenacted as follows:

43-29.1-01. Loan repayment program - Veterinarians - Maximum amount of funds.

Each year the state health councildepartment of health and human services, in consultation with the state board of animal health, shall select qualified applicants to participate in a loan repayment program, as provided for in this chapter. Each applicant must be a veterinarian and must agree to provide food animal veterinary medicine services to communities in this state. The selected applicants are eligible to receive up to eighty thousand dollars in loan repayment funds. The number of applicants that the councildepartment of health and human services may select for participation in the loan repayment program is limited only by the moneys available to support the program, as provided for in this chapter.

SECTION 94. AMENDMENT. Section 43-29.1-02 of the North Dakota Century Code is amended and reenacted as follows:

43-29.1-02. Loan repayment program - Veterinarians - Powers of state health councildepartment.

The state health council department of health and human services may:

- 1. Determine the eligibility and qualifications of an applicant for loan repayment funds under this chapter;
- 2. Identify communities that are in need of a veterinarian and establish a priority ranking for participation in the program by the selected communities;
- 3. Create and distribute a loan repayment application;

- 4. Determine the amount of the loan repayment funds for which an applicant may be eligible under this chapter and, in making this determination, examine any outstanding education loans incurred by the applicant;
- 5. Establish conditions regarding the use of the loan repayment funds;
- 6. Enter a nonrenewable contract with the selected applicant and the selected community to provide to the applicant funds for the repayment of education loans in exchange for the applicant agreeing to actively practice in the selected community;
- 7. Receive and use funds appropriated for the program;
- 8. Enforce any contract under the program;
- 9. Cancel a contract for reasonable cause;
- 10. Participate in federal programs that support the repayment of education loans incurred by veterinarians and agree to the conditions of the federal programs;
- 11. Accept property from an entity; and
- 12. Cooperate with the department of health and human services to effectuate this chapter.

SECTION 95. AMENDMENT. Subsection 1 of section 43-29.1-03 of the North Dakota Century Code is amended and reenacted as follows:

- 1. In establishing the criteria regarding eligibility for loan repayment funds under this chapter, the state health councildepartment of health and human services shall consider the applicant's:
 - a. Training in food animal veterinary medicine, ability, willingness to engage in food animal veterinary medicine, and the extent to which such services are needed in a selected community;
 - b. Commitment to serve in a community that is in need of a veterinarian;
 - c. Compatibility with a selected community;
 - d. Date of availability for service to the selected community; and
 - e. Competence and professional conduct.

SECTION 96. AMENDMENT. Section 43-29.1-04 of the North Dakota Century Code is amended and reenacted as follows:

43-29.1-04. Community selection criteria.

- 1. In selecting a community with a defined need for the services of a veterinarian, the health councildepartment of health and human services shall consider:
 - a. The size of the community and give priority:
 - (1) First to rural communities having a population under five thousand;
 - (2) Second to communities having a population between five thousand and ten thousand; and
 - (3) Third to communities having a population greater than ten thousand.
 - b. The number of veterinarians practicing in the community and the surrounding area.

- c. The access by residents to veterinarians practicing in the community and the surrounding area
- d. The degree to which residents support the addition of a veterinarian within the community.
- 2. The state health council department of health and human services shall give priority for participation to a community that demonstrates a need for a veterinarian.
- 3. In evaluating communities for participation in this program, the state health councildepartment of health and human services may consult with public and private entities and visit the communities.

SECTION 97. AMENDMENT. Section 43-29.1-05 of the North Dakota Century Code is amended and reenacted as follows:

43-29.1-05. Eligible loans.

The state health council department of health and human services may provide for loan repayment funds to a veterinarian who has received an education loan. The council department of health and human services may not provide funds for the repayment of a loan that is in default at the time of the application. The amount of the repayment must be related to the veterinarian's outstanding education loans.

SECTION 98. AMENDMENT. Section 43-29.1-06 of the North Dakota Century Code is amended and reenacted as follows:

43-29.1-06. Release from contract obligation.

- 1. The state health council department of health and human services shall release a veterinarian from the veterinarian's loan repayment contract without penalty if:
 - a. The veterinarian has completed the service requirements of the contract;
 - b. The veterinarian is unable to complete the service requirement of the contract because of a permanent physical disability;
 - c. The veterinarian demonstrates to the state health council department of health and human services extreme hardship or shows other good cause justifying the release; or
 - d. The veterinarian dies.
- 2. A decision by the state health council department of health and human services not to release a veterinarian from the veterinarian's loan repayment contract without penalty is reviewable by district court.

SECTION 99. AMENDMENT. Subsection 5 of section 43-29.1-07 of the North Dakota Century Code is amended and reenacted as follows:

5. If any moneys remain in the state veterinary loan repayment account after the health-councildepartment of health and human services has met all statutory and contractual obligations established under this chapter, the health councildepartment of health and human services may use the moneys to increase the number of veterinarians participating in the loan repayment program.

SECTION 100. AMENDMENT. Section 43-29.1-08 of the North Dakota Century Code is amended and reenacted as follows:

43-29.1-08. Gifts, grants, and donations - Continuing appropriation.

- 1. The state health councildepartment of health and human services may accept any conditional or unconditional gifts, grants, and donations for the purpose of providing moneys for the repayment of veterinarians' education loans. However, if an entity desires to provide moneys to the state health councildepartment of health and human services for the location of a veterinarian in or at a specific site, the entity shall commit to provide the full amount required under this program for a period of four years.
- 2. The state health councildepartment of health and human services may contract with a public or private entity and may expend any moneys available to the councildepartment of health and human services to obtain matching funds for the purposes of this chapter.
- 3. All moneys received as gifts, grants, or donations under this section are appropriated on a continuing basis to the state health councildepartment of health and human services for the purpose of increasing the number of veterinarians participating in the loan repayment program under this chapter.

SECTION 101. AMENDMENT. Section 43-34-02 of the North Dakota Century Code is amended and reenacted as follows:

43-34-02. Composition of the board.

There is hereby created the state board of examiners for nursing home administrators which consists of nine members.

- Two members of the board must be the state health officer and the executive director commissioner of the department of health and human services or the members' designees.
- 2. One member of the board must be a physician appointed to the board for a three-year term by the governor.
- 3. One member of the board must be a hospital administrator appointed to the board for a three-year term by the governor.
- 4. Four members of the board must be licensed nursing home administrators appointed to the board for three-year terms by the governor.
- 5. One member of the board must be a nurse appointed to the board for a three-year term by the governor.
- 6. Any vacancies occurring in the appointments made by the governor must be filled by the governor.
- Appointive members may be removed by the governor for cause after due notice and hearing.

SECTION 102. AMENDMENT. Section 43-38-01 of the North Dakota Century Code is amended and reenacted as follows:

43-38-01. Definitions.

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

- 1. "Department" means the department of health and human services.
- <u>2.</u> "Electrologist" means a qualified and licensed person proficient in the removal of hair by means of the electric needle.

- 2.3. "Electrolysis" means the removal of superfluous hair by use of the electric needle or electronic process.
- 3.4. "Electronic hair removal technician" means a qualified and licensed person proficient in the removal of hair by means of an electronic process other than the electric needle.
 - 4. "State health council" means the state health council as defined in chapter 23-01.

SECTION 103. AMENDMENT. Section 43-38-02 of the North Dakota Century Code is amended and reenacted as follows:

43-38-02. Electrologist and electronic hair removal technician licensure - Duties of state health council.

The state health councildepartment shall issue an electrologist's or electronic hair removal technician's license. The annual license must be determined annually by the council but may not exceed fifty dollars for new licenses and not exceed twenty-five dollars for relicensure.

SECTION 104. AMENDMENT. Section 43-38-03 of the North Dakota Century Code is amended and reenacted as follows:

43-38-03. Rulemaking authority of department of health and human services.

- 1. The department of health and human services shall establish standards, rules, and regulations that are found necessary for the maintenance of public health, including sanitation and disease control. The department of health and human services has the following powers:
- 1. <u>a.</u> To establish minimum age levels.
- 2. <u>b.</u> To establish education and training levels for electrologists and electronic hair removal technicians.
- 3. c. To issue, deny, suspend, or revoke licenses.
- 4. <u>d.</u> To develop application and licensure forms.
- 5. To delegate the administration of the program to the state health officer, subject to such provisions as the council may make for appeal to it.
- 6. <u>e.</u> To promulgate such requirements as may be found necessary to carry out the intent of this chapter.
- 2. All electrologists and electronic hair removal technicians practicing in North Dakota prior to July 1, 1979, may, without examination, be issued a license by the department of health and human services upon proof, satisfactory to the department, of having met the qualifications.

SECTION 105. AMENDMENT. Subsection 1 of section 43-43-01 of the North Dakota Century Code is amended and reenacted as follows:

 "Advisory board" means the following or their appointed agents: state health officer or designee as chairperson, the commissioner of the North Dakota department of agriculture, and the president of the North Dakota environmental health association. The state health officer or designee shall appoint one agent of a district or local health unit environmental health practitioner and one consumer.

SECTION 106. AMENDMENT. Section 43-43-03 of the North Dakota Century Code is amended and reenacted as follows:

43-43-03. Advisory board duties and compensation.

The advisory board shall meet at the request of the state health officer or designee to assist in implementation of duties as defined in section 43-43-04. The advisory board must be reimbursed for any necessary expenses, but shall serve without further compensation except as may be authorized and fixed by the department of health and human services by rule.

SECTION 107. AMENDMENT. Section 43-43-05 of the North Dakota Century Code is amended and reenacted as follows:

43-43-05. Exception from requirements.

The state health officerdepartment of health and human services must license all persons actually engaged in the practice of environmental health in this state upon receipt of proof of a bona fide practice in this state; however, the applicant must file an application and present such proof prior to July 1, 1986, or become subject to licensure requirements of this chapter.

SECTION 108. AMENDMENT. Subsection 10 of section 50-01.1-06 of the North Dakota Century Code is amended and reenacted as follows:

10. Are the custodian designees of the executive director commissioner of the department for any child in the custody of the department.

SECTION 109. AMENDMENT. Section 50-06-01.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.1. Department of health and human services to be substituted for public welfare board of North Dakota and social service board of North Dakota, members of board, executive directorcommissioner, and department of human services.

When the terms "public welfare board of North Dakota", "social service board of North Dakota", "executive director of the public welfare board", "executive director of the social service board", "department of human services", or "executive director of the department of human services", "member of the public welfare board", or "member of the social service board", or any derivative of those terms which, when used in context indicates an intention to refer to those persons or that board, appear in the North Dakota Century Code, the term "department of health and human services", or the term "executive directorcommissioner of the department of health and human services", as the case may be, must be substituted therefor. It is the intent of the legislative assembly that the department of health and human services must be substituted for, shall take any action previously to be taken by, and shall perform any duties previously to be performed by the public welfare board of North Dakota, by the social service board of North Dakota, by the department of human services, or by the state department of health. The legislative council may replace references to the "department of human services" or "executive director of the department of human services" or any derivatives of those terms with "department of health and human services" or "executive director of the department of health and human services" in any measure enacted by the sixty-seventh legislative assembly. The legislative council may replace references to the "executive director of the department of human services" or any derivatives of those terms with "commissioner of the department of health and human services or designee" in any measure enacted by the sixty-eighth legislative assembly.

SECTION 110. AMENDMENT. Section 50-06-01.3 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.3. Appointment of executive director commissioner - Compensation - Deputy.

1. The governor shall appoint the executive director commissioner of the department who shall serve at the pleasure of the governor. The executive director commissioner shall take the oath of office required of civil officers by section 44-01-05. The executive director commissioner is

- entitled to receive compensation in the amount established by the governor within the limits of legislative appropriations.
- 2. The commissioner of the department may appoint a deputy commissioner.
- 3. The commissioner of the department may delegate any of the commissioner's authority as the commissioner determines necessary.

SECTION 111. AMENDMENT. Section 50-06-01.4 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.4. Structure of the department.

- 1. The department includes the state hospital, the regional human service centers, a vocational rehabilitation unit, <u>public</u> health division, and other units or offices and administrative and fiscal support services as the <u>executive directorcommissioner of the department</u> determines necessary. The department must be structured to promote efficient and effective operations and, consistent with fulfilling its prescribed statutory duties, shall act as the official agency of the state in the discharge of the following functions not otherwise by law made the responsibility of another state agency:
 - a. Administration of programs for children and families, including adoption services and the licensure of child-placing agencies, foster care services and the licensure of foster care arrangements, certification of shelter care services, child protection services, children's trust fund, licensure of early childhood programs, refugee services, in-home community-based services, quality control, and administration of the interstate compacts on the placement of children and juveniles.
 - b. Administration of programs for individuals with developmental disabilities, including licensure of facilities and services, and the design and implementation of a community-based service system for persons in need of habilitation.
 - c. Administration of aging service programs, including nutrition, transportation, advocacy, social, ombudsman, recreation, and related services funded under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], home and community-based services, licensure of adult foster care homes, and the committee on aging.
 - d. Administration of behavioral health programs, including:
 - (1) A policy division responsible for reviewing and identifying service needs and activities in the state's behavioral health system in an effort to ensure health and safety, access to services, and quality of services; establishing quality assurance standards for the licensure of substance use disorder program services and facilities; and providing policy leadership in partnership with public and private entities; and
 - (2) A service delivery division responsible for providing chronic disease management, regional intervention services, and twenty-four-hour crisis services for individuals with behavioral health disorders.
 - Administration of economic assistance programs, including temporary assistance for needy families, the supplemental nutrition assistance program, home energy assistance, child care assistance, refugee assistance, work experience, work incentive, and quality control.
 - f. Administration of medical service programs, including medical assistance for children's health insurance program, Medicaid waivers, early and periodic screening, diagnosis and treatment, utilization control, autism services, and claims processing.
 - g. Administration of general assistance.

- h. Administration of child support.
- i. Administration of program, services, and licensing outlined in title 23 and other previous duties of the state department of health <u>and state health council</u>.
- 2. The executive directorcommissioner of the department or commissioner's designee shall consult with and maintain a close working relationship with the department of corrections and rehabilitation and the superintendents of the school for the deaf and the North Dakota vision services school for the blind to develop programs for individuals with developmental disabilities; and with the superintendent of public instruction to maximize the use of resource persons in regional human service centers in the provision of special education services. The executive directorcommissioner of the department or commissioner's designee shall also maintain a close liaison with human service zones.
- 3. By August 1, 2019, the department shall establish a template for the development of human service zone plans, including process and content requirements, access point expectations, client grievances procedures, human resources, and locally funded programs or services and how those services will be addressed.
- 4. The department shall develop, with assistance from the North Dakota association of counties, a process for consultation and technical assistance for human service zone working groups by August 1, 2019.

SECTION 112. AMENDMENT. Subsection 3 of section 50-06-05.3 of the North Dakota Century Code is amended and reenacted as follows:

Each human service center must have a human services advisory group consisting of the 3. human service zone directors of the region served, the public health directors of the region served, two current county commissioners appointed by the executive directorcommissioner of the department or commissioner's designee, and five additional members appointed by the executive director commissioner of the department or commissioner's designee. Each advisory group member must be a resident of the region the member is appointed to serve. The term of office for each appointed member is two years and arranged so that the term of three of the appointed members expires at the end of the first year and the term of the remaining four appointed members expires at the end of the second year, except for those first members appointed, three members shall serve a one-year term and four members shall serve a two-year term. The directorcommissioner of the department or commissioner's designee shall select the appointed members of each human service advisory group on the basis of population of the counties in the region served by the human service center. Each county in the region must be represented by at least one member on the human service advisory group. To the extent possible, appointed membership of the advisory group must reflect regional interests in the fields of developmental disabilities, social services, mental health, and substance use disorders. The executive directorcommissioner of the department or commissioner's designee shall appoint a chairman for each advisory group from the membership of the advisory group. The executive director commissioner of the department or commissioner's designee shall fill a vacancy occurring within an advisory group for other than the expiration of a term in the same manner as original appointments, except that appointments must be made only for the unexpired term. The department shall compensate appointed members of a human service advisory group at the rate of forty-five dollars per day, not to exceed twenty-five days in any one year. The department also shall pay members for mileage and actual expenses incurred in attending meetings and in the performance of their official duties in the amounts provided by law for other state officers.

SECTION 113. AMENDMENT. Section 50-06-05.5 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.5. Director of regional center - Medical director.

Each regional human service center must be headed by a regional director appointed by the executive directorcommissioner of the department. The regional director must be accountable to the executive directorcommissioner of the department or the director'scommissioner's designee. Each regional director may employ the staff necessary to discharge the center's responsibilities. A regional director, subject to the approval of the executive directorcommissioner of the department or the director'scommissioner's designee, and within the limit of legislative appropriations, may make contractual arrangements with public or private agencies or with individuals and organizations to discharge the regional human service center's service delivery responsibilities. Each regional director shall hire a qualified medical professional who must be designated as the medical director of the center. The medical director is responsible for coordinating mental health and medically related services. The medical director's position may be part time or full time as determined appropriate by the regional director, with the concurrence of the executive directorcommissioner of the department or the director'scommissioner's designee. As used in this section, "qualified medical professional" means a board-eligible or board-certified psychiatrist, when such an individual can be employed, and when this is not possible, an individual possessing at least a medical degree.

SECTION 114. AMENDMENT. Section 50-06-05.8 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.8. Department to assume costs of human services.

The department shall pay each human service zone's expenses for administering human services for calendar years after December 31, 2019, based on the payment amount calculated for each human service zone under chapter 50-35. The executive directorcommissioner of the department or commissioner's designee shall authorize expenditures from the human service finance fund to reimburse the department for the department's costs of providing human services that historically have been provided by a county or human service zone, or for a new service or program based on federal or state law.

SECTION 115. AMENDMENT. Section 50-06-06.6 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.6. Department may lease real and personal property.

The executive directorcommissioner of the department or commissioner's designee may lease surplus farm and pastureland at the state hospital and the life skills and transition center. The executive directorcommissioner or designee also may enter into further leases of real or personal property at the life skills and transition center or the state hospital upon a specific finding that the granting of each such leasehold interest will result in a net economic gain for the department, taking into account all identifiable costs. Any lease of space for the purpose of providing child care services must meet requirements as determined by the department. The executive directorcommissioner of the department or commissioner's designee may prescribe the terms and conditions of any leases entered into pursuant to this section and may renew existing leases. Any lease entered into must be subject to renewal or cancelable each biennium.

SECTION 116. AMENDMENT. Section 50-06-30 of the North Dakota Century Code is amended and reenacted as follows:

50-06-30. Interagency agreement between the department of health and human services and the department of corrections and rehabilitation.

The executive directorcommissioner of the department or commissioner's designee and the director of the department of corrections and rehabilitation may amend the interagency agreement entered under this section which became effective August 1, 2007. The amended agreement must provide that the department of corrections and rehabilitation shall train, consult, and assist the department of health and human services with the provision and enforcement of safety and security procedures at the state

hospital for all patients at the state hospital, including those committed to the state hospital under chapter 25-03.1 or placed at the state hospital for evaluation or civil commitment and treatment under chapter 25-03.3 and for all staff, visitors, and volunteers at the state hospital. The amended interagency agreement must provide that the executive director commissioner of the department or commissioner's designee shall continue to be responsible for the custody and care of patients at the state hospital, including those committed to the state hospital under chapter 25-03.1 or placed at the state hospital for evaluation or civil commitment and treatment under chapter 25-03.3, including responsibility for all assessments, evaluations, and treatment required under chapter 25-03.3, the provision of all necessary staffing, including maintenance staff, and the provision of all daily care and health care.

SECTION 117. AMENDMENT. Section 50-06-31 of the North Dakota Century Code is amended and reenacted as follows:

50-06-31. Report to legislative council - Individuals committed to state hospital.

Before March first of each even-numbered year, the department shall report to the legislative council on services provided by the department of corrections and rehabilitation relating to individuals at the state hospital who have been committed to the care and custody of the executive director commissioner of the department or commissioner's designee.

SECTION 118. AMENDMENT. Section 50-06-32 of the North Dakota Century Code is amended and reenacted as follows:

50-06-32. Autism spectrum disorder task force - Appointment - Duties - Annual reports.

- The autism spectrum disorder task force consists of:
 - a. (1) The state health officer, or the officer's designee;
 - (2) The <u>directorcommissioner</u> of the department, or the <u>director'scommissioner's</u> designee;
 - (3) The superintendent of public instruction, or the superintendent's designee; and
 - (4) The executive director of the protection and advocacy project, or the director's designee; and
 - b. The following members appointed by the governor:
 - (1) A pediatrician with expertise in the area of autism spectrum disorder;
 - (2) A psychologist with expertise in the area of autism spectrum disorder;
 - (3) A college of education faculty member with expertise in the area of autism spectrum disorder;
 - A behavioral specialist;
 - (5) A licensed teacher with expertise in the area of autism spectrum disorder;
 - (6) An occupational therapist;
 - (7) A representative of a health insurance company doing business in this state;
 - (8) A representative of a licensed residential care facility that provides care and services to individuals with autism spectrum disorder;
 - (9) A representative who is an enrolled member of a federally recognized Indian tribe;
 - (10) An adult self advocate with autism spectrum disorder;

- (11) A parent of a child with autism spectrum disorder;
- (12) A family member of an adult with autism spectrum disorder; and
- (13) A member of the legislative assembly.
- 2. The <u>directorcommissioner</u> of the department, or the <u>director'scommissioner's</u> designee, shall serve as the chairman. The task force shall meet at the call of the chairman, at least quarterly.
- 3. The task force shall examine early intervention services, family support services that would enable an individual with autism spectrum disorder to remain in the least restrictive home-based or community setting, programs transitioning an individual with autism spectrum disorder from a school-based setting to adult day programs and workforce development programs, the cost of providing services, and the nature and extent of federal resources that can be directed to the provision of services for individuals with autism spectrum disorder.
- 4. The task force shall develop a state autism spectrum disorder plan and present the plan to the governor and the legislative council before July 1, 2010. Thereafter, the task force shall continue to review and periodically update or otherwise amend the state plan so that it best serves the needs of individuals with autism spectrum disorder. The task force shall provide an annual report to the governor and the legislative council regarding the status of the state autism spectrum disorder plan.

SECTION 119. AMENDMENT. Subsection 1 of section 50-06-43.2 of the North Dakota Century Code is amended and reenacted as follows:

- 1. The commission on juvenile justice is composed of:
 - Three members of the house of representatives, two of whom must be selected by the majority leader of the house of representatives and one of whom must be selected by the minority leader of the house of representatives;
 - b. Three members of the senate, two of whom must be selected by the majority leader of the senate and one of whom must be selected by the minority leader of the senate;
 - c. The governor, or the governor's designee;
 - d. The superintendent of public instruction, or the superintendent's designee;
 - e. The <u>executive directorcommissioner</u> of the department, or the <u>executive</u> <u>director'scommissioner's</u> designee;
 - f. The director of the department of corrections and rehabilitation's division of juvenile services, or the director's designee;
 - g. The executive director of the Indian affairs commission, or the executive director's designee;
 - h. A director of juvenile court services, appointed by the chief justice of the supreme court;
 - i. A representative from the commission on legal counsel for indigents; and
 - j. The following members appointed by the governor:
 - (1) A state's attorney;
 - (2) A representative of a children's advocacy center; and
 - (3) A representative of local law enforcement.

SECTION 120. AMENDMENT. Subsection 4 of section 50-06.1-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Rules" means rules adopted by the division executive director with the approval of the executive director commissioner of the department or commissioner's designee.

SECTION 121. AMENDMENT. Subsection 7 of section 50-10.1-03 of the North Dakota Century Code is amended and reenacted as follows:

7. Carry out any activities consistent with the requirements of this chapter, including the delegation to regional or volunteer community long-term care ombudsmen of any duties imposed by this chapter, which the executive director commissioner of the department or commissioner's designee deems appropriate.

SECTION 122. AMENDMENT. Subsection 1 of section 50-11.1-25 of the North Dakota Century Code is amended and reenacted as follows:

- 1. The North Dakota early childhood council consists of:
 - a. A chairman appointed by the governor;
 - b. The superintendent of public instruction, or the superintendent's designee;
 - c. The state health officer, or the officer's designee;
 - d. The directorcommissioner of the department, or the director'scommissioner's designee;
 - e. The North Dakota head start state collaboration administrator, or the administrator's designee;
 - f. The commissioner of higher education, or the commissioner's designee;
 - g. The commissioner of commerce, or the commissioner's designee;
 - h. The chairman of the senate education committee, or the chairman's designee;
 - i. The chairman of the house of representatives education committee, or the chairman's designee;
 - j. The chairman of the senate human services committee, or the chairman's designee;
 - k. The chairman of the house of representatives human services committee, or the chairman's designee; and
 - I. The following individuals appointed by the governor:
 - (1) The superintendent of a school district having at least one thousand students in average daily membership;
 - (2) The superintendent of a school district having fewer than one thousand students in average daily membership;
 - (3) The superintendent of a school district headquartered on a reservation or including reservation land within its boundaries;
 - (4) An individual representing a non-religious-based provider of a four-year old program;
 - (5) An individual representing a religious-based provider of a four-year old program;

- (6) An individual representing a center-based licensed child care provider;
- (7) An individual representing a home-based licensed child care provider;
- (8) An individual representing a reservation-based head start program;
- (9) An elected member of a school board:
- (10) The parent of a child not yet enrolled in elementary school;
- (11) The parent of a child with disabilities not yet enrolled in elementary school; and
- (12) An individual representing children with disabilities.
- (13) A special education director.

SECTION 123. AMENDMENT. Section 50-21-02 of the North Dakota Century Code is amended and reenacted as follows:

50-21-02. Administration of revolving fund.

The revolving fund and loans made therefrom must be supervised and administered by the Bank of North Dakota. All applications for loans under the provisions of this chapter for the construction of nursing homes or combination nursing homes and basic care facilities must be made to the department of health and human services, which department is authorized, subject to the approval of the North Dakota health council, to promulgate such rules and regulations as may be necessary to carry out the provisions of this chapter. All applications for the construction of basic care facilities must be made to the department of health and human services, which department shall promulgate such rules and regulations as may be necessary to carry out the provisions of this chapter. Applications approved by the department of health and human services and the North Dakota health council must be forwarded to the Bank of North Dakota. Upon approval of such application by the president of the Bank of North Dakota, loans must be granted by the Bank of North Dakota from the revolving fund in accordance with the provisions of this chapter.

SECTION 124. AMENDMENT. Section 50-21-04 of the North Dakota Century Code is amended and reenacted as follows:

50-21-04. Standards - Administration procedure.

The department of health and human services shall establish standards of construction which must be followed by all applicants receiving loans of funds for the construction of nursing homes or combination nursing homes and basic care facilities. The department of health and human services shall establish standards of construction which must be followed by all applicants for loans for the construction of basic care facilities. The health councildepartment of health and human services, in the case of the construction of nursing homes or basic care facilities or combination nursing homes and basic care facilities, shall approve all building plans and specifications for any facilities to be constructed in whole or in part with loans of funds provided under the provisions of this chapter prior to the disbursement of any such funds. Administrative procedures established by the department of health and human services must, except to construction standards, be in general in accordance with the procedures established for the administration of the federal grant-in-aid program for similar purposes under the Hill-Burton Act, or federal acts supplemental thereto.

SECTION 125. AMENDMENT. Section 50-24.6-02 of the North Dakota Century Code is amended and reenacted as follows:

50-24.6-02. Drug use review board.

 The board is established within the department for the implementation of a drug use review program.

- 2. The board consists of seventeen members. The pharmacy administrator of the department and the medical consultant to the department are ex officio nonvoting board members who shall provide administrative services to the board. A majority of the appointed members must be physicians and pharmacists participating in the medical assistance program. Four or more of the appointed members must have experience with a drug use review process or have participated in programs in which prior authorization is used. The appointed members of the board must be:
 - a. Four physicians licensed in this state and actively engaged in the practice of medicine, one of whom is a psychiatrist, appointed by the North Dakota medical association;
 - b. Two physicians licensed in this state and actively engaged in the practice of medicine, appointed by the executive director commissioner of the department or commissioner's designee;
 - c. Four pharmacists licensed in this state and actively engaged in the practice of pharmacy, appointed by the North Dakota pharmaceutical association;
 - d. Two pharmacists licensed in this state and actively engaged in the practice of pharmacy, appointed by the executive director commissioner of the department or commissioner's designee;
 - e. One individual who represents consumer interests, appointed by the governor;
 - f. One pharmacist or physician representing the brand pharmaceutical industry appointed by the pharmaceutical research and manufacturers of America; and
 - g. One pharmacist or physician representing the generic pharmaceutical industry appointed by the generic pharmaceutical association.
- 3. Appointed board members shall serve staggered three-year terms. An appointed member may be reappointed for a period not to exceed three 3-year terms. A vacancy on the board must be filled for the balance of the unexpired term from the appropriate board category as provided under subsection 2. The executive director commissioner of the department or commissioner's designee may replace an appointed member of the board who fails to attend three consecutive meetings of the board without advance excuse or who fails to perform the duties expected of a board member. The pharmaceutical industry representatives are nonvoting board members.
- 4. Voting board members shall select a chairman and a vice chairman on an annual basis from the board's voting membership.
- 5. The board shall meet in person at least once every three months and may meet at other times by teleconference or electronically at the discretion of the chairman. A board member is entitled to receive from the department per diem compensation and reimbursement of expenses as determined by the department, except that no compensation under this section may be paid to any board member who receives compensation or salary as a state employee or official.

SECTION 126. AMENDMENT. Subsection 3 of section 50-25.1-04.1 of the North Dakota Century Code is amended and reenacted as follows:

3. In every case of alleged institutional child abuse or neglect, the state child protection team shall make a determination whether child abuse or neglect is indicated. Upon a determination that institutional child abuse or neglect is indicated, the state child protection team promptly shall make a written report of the determination. When a report includes an allegation or report of institutional child abuse and neglect as defined in section 50-25.1-02, the state child protection team promptly shall notify the executive director commissioner of the department or

<u>commissioner's designee</u> of the determination. Notwithstanding section 50-25.1-11, the department shall notify the superintendent of public instruction, the school district administrator, and the president or chairman of the school board or a private school's governing body or entity if the subject of the report is a public or private school.

SECTION 127. AMENDMENT. Subsection 1 of section 50-28-04 of the North Dakota Century Code is amended and reenacted as follows:

- 1. The executive director commissioner of the department or commissioner's designee shall:
 - a. Execute one or more interstate compacts on behalf of this state, not inconsistent with this chapter, to implement the purposes of this chapter; and
 - b. Designate a compact administrator and a deputy compact administrator as the executive directorcommissioner or designee deems necessary.

SECTION 128. AMENDMENT. Subsection 1 of section 50-28-05 of the North Dakota Century Code is amended and reenacted as follows:

1. This state's joinder of the compact is effective upon execution of the compact by the executive directorcommissioner of the department or commissioner's designee.

SECTION 129. AMENDMENT. Subsection 2 of section 50-35-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Director" means the executive director commissioner of the department or the executive director's commissioner's designee.

SECTION 130. AMENDMENT. Section 54-44.3-31 of the North Dakota Century Code is amended and reenacted as follows:

54-44.3-31. Political subdivision may request to be exempted from state merit system.

A political subdivision subject to the merit system under this chapter may file a request with the division and the executive director commissioner of the department of health and human services or commissioner's designee to be exempted from the merit system. The request must describe a plan and policy that assures the political subdivision has developed a merit system plan that meets federal standards for personnel administration. The division and the executive director commissioner of the department of health and human services or commissioner's designee shall authorize the political subdivision plan within sixty days of receiving a request under this section if the plan and policies meet federal requirements. If the division and the executive director commissioner of the department of health and human services or commissioner's designee determine that the proposed plan and policies fail to meet the federal requirements, the division and the executive director commissioner or designee shall deny the request and notify the requester of the specific reasons for the denial.

SECTION 131. AMENDMENT. Subsection 1 of section 54-07-01.2 of the North Dakota Century Code is amended and reenacted as follows:

- 1. Notwithstanding sections 2-05-01, 4.1-05-02, 4.1-26-02, 6-01-03, 6-09-02.1, 12-55.1-02, 12-59-01, 15-39.1-05.1, 15.1-01-01, 15.1-13-02, 20.1-02-23, 23-01-02, 23.1-01-02, 36-01-01, 37-18.1-01, 50-06-05.6, 54-34.3-10, 54-54-02, 55-01-01, and 61-02-04, all members of the following boards and commissions must, subject to the limitations of this section, be considered to have resigned from such boards and commissions effective January first of the first year of each four-year term of the governor:
 - a. The aeronautics commission.
 - b. The milk marketing board.

- c. The dairy promotion commission.
- d. The state banking board.
- e. The state credit union board.
- f. The advisory board of directors to the Bank of North Dakota.
- g. The pardon advisory board.
- h. The state parole board.
- i. The state board of public school education.
- j. The education standards and practices board.
- k. The board of trustees of the teachers' fund for retirement.
- I. The state game and fish advisory board.
- m. The health council.
- n. The environmental review advisory council.
- o.n. The board of animal health.
- p.o. The administrative committee on veterans' affairs.
- q.p. The committee on aging.
- r.g. The commission on the status of women.
- s.r. The North Dakota council on the arts.
- t.s. The state historical board.
- u.t. The state water commission.

SECTION 132. AMENDMENT. Section 54-46-13 of the North Dakota Century Code is amended and reenacted as follows:

54-46-13. Rules for state and human service zone records - Administrator to adopt.

The administrator shall adopt rules in accordance with chapter 28-32 for state and human service zone records. The rules adopted by the administrator must be consistent with records retention requirements imposed by federal law with respect to those records. The administrator, prior to adoption, amendment, or repeal of rules concerning state and human service zone records, shall consult with the executive director commissioner of the department of health and human services or commissioner's designee.

SECTION 133. AMENDMENT. Subsection 1 of section 54-59-25 of the North Dakota Century Code is amended and reenacted as follows:

1. The health information technology advisory committee consists of the state chief information officer or the chief information officer's designee, the state health officer or the state health officer's designee, the governor or the governor's designee, the executive-director of the department of health and human services or the executive-director's commissioner's designee, the chairman of the house human services committee and the chairman of the senate human services committee or if either or both of them are unwilling or unable to serve then the chairman of the legislative management shall appoint a

replacement who is a member of the same legislative chamber as the individual being replaced, and individuals appointed by the governor to represent a broad range of public and private health information technology stakeholders. A committee member who is not an ex officio member, designee of an ex officio member, state employee, or legislator is entitled to mileage and expenses as provided by law for state officers and employees, to be paid by the health information technology office. A committee member who is an ex officio member, designee of an ex officio member, state employee, or legislator is entitled to receive that member's regular salary and receive mileage and expenses, to be paid by the employing agency.

SECTION 134. AMENDMENT. Section 54-59-33 of the North Dakota Century Code is amended and reenacted as follows:

54-59-33. Statewide longitudinal data system committee - Membership.

- The statewide longitudinal data system committee consists of:
 - a. The commissioner of the board of higher education or the commissioner's designee;
 - b. The superintendent of public instruction or the superintendent's designee;
 - c. The chief information officer or the officer's designee;
 - d. The director of the department of career and technical education or the director's designee;
 - e. The director of job service North Dakota or the director's designee;
 - f. The commissioner of commerce or the commissioner's designee;
 - g. The <u>executive directorcommissioner</u> of the department of health and human services or the <u>director'scommissioner's</u> designee;
 - h. The executive director of the North Dakota council of educational leaders or the executive director's designee;
 - i. The director of the North Dakota workforce development council or the director's designee; and
 - j. Two members of the legislative assembly appointed by the chairman of the legislative management.
- 2. The governor shall designate the chairman of the committee.

SECTION 135. AMENDMENT. Section 57-60-03 of the North Dakota Century Code is amended and reenacted as follows:

57-60-03. Measurement and recording of synthetic natural gas, byproducts, beneficiated coal, or electricity produced and carbon dioxide capture.

The production of synthetic natural gas, byproducts, beneficiated coal, or electrical power and data necessary to determine the amount of carbon dioxide captured must be measured at the place of production or generation, and any person subject to the imposition of the taxes provided by this chapter shall maintain devices to measure and record the cumulative periodic totals of synthetic natural gas, byproducts, beneficiated coal, and electrical power generated and data necessary to determine the amount of carbon dioxide captured. Any person subject to the taxes imposed by this chapter shall maintain accurate records of the daily and monthly totals of synthetic natural gas, beneficiated coal, and electrical power generated and subject to such taxes and data necessary to determine the amount of carbon dioxide captured. On or before October first of each year, the operator of any coal gasification

plant shall file a report with the state health officer department of environmental quality listing the quantity of byproducts produced during the year ending June thirtieth of that year. The commissioner shall have access to such records at reasonable times and places.

SECTION 136. REPEAL. Sections 23-01-01, 23-01-06, and 23-07-07 of the North Dakota Century Code are repealed.

H. B. NO. 1165 - PAGE 54

	Speaker of the House			President of the Senate	
	Chief C	Clerk of the House		Secretary of the Senate	
				Representatives of s of that body as Hou	
House Vote:	Yeas 88	Nays 3	Absent 3		
Senate Vote:	Yeas 45	Nays 1	Absent 1		
				Chief Clerk of the H	ouse
Received by th	e Governor at _		, 2023.		
Approved at	M. on _				, 2023.
				Governor	
Filed in this offi	ice this	day of			, 2023,
at o'	'clock	M.			
				Secretary of State	

KeyCite Yellow Flag - Negative Treatment Proposed Legislation

West's North Dakota Century Code Annotated Title 23. Health and Safety Chapter 23-01. State Department of Health

NDCC, 23-01-05

§ 23-01-05. Health officer--Qualifications, salary, term, duties

Currentness

- 1. The governor shall appoint the state health officer who at the time of appointment must be a physician with substantive private or public administrative experience and public health experience. The state health officer is entitled to receive a salary commensurate with that individual's training and experience. The governor shall set the salary of the state health officer within the limits of legislative appropriations to the department.
- 2. The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business.
- 3. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years.
- 4. If the office of the state health officer is filled temporarily, the governor shall appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer. Each member of the advisory committee is entitled to receive reimbursement of expenses in performing official duties in amounts provided by law for other state officers. The term of the advisory committee coincides with the term of the state health officer. A committee member serves at the pleasure of the governor.
- 5. The duties of the state health officer are as follows:
 - a. Provide strategy and policy advice to improve health and wellness.
 - b. Serve in an advisory capacity for local public health and local health officers.
 - c. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions.
 - d. Issue a written order relating to a disease control measure necessary to prevent the spread of a communicable disease. A disease control measure may include a special immunization activity and decontamination measure.

- (1) The state health officer shall limit a written order issued under this section to the geographical area affected by the communicable disease. The state health officer may not issue a statewide order under this section unless the governor has declared a statewide disaster or emergency under chapter 37-17.1 and the governor consents to the order. The statewide order is limited in duration to the duration of the declared disaster or emergency unless terminated earlier pursuant to chapter 37-17.1.
- (2) A written order issued under this section has the same effect as a physician's standing medical order.
- (3) The state health officer shall apply to the district court in a judicial district in which a communicable disease is present for an injunction canceling a public event or closing a place of business. On application of the state health officer showing the necessity of the cancellation, the court may issue an exparte preliminary injunction, pending a full hearing.
- (4) Notwithstanding any other provision of law, an order issued pursuant to this subsection may not:
 - (a) Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - (b) Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or
- (c) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
 - (5) A person claiming to be aggrieved by a violation of paragraph 1 may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.
- e. Perform all duties required or provided by law.

Credits

S.L. 1885, ch. 63, §§ 2, 3, 6, 15; S.L. 1889, ch. 22, § 1; S.L. 1897, ch. 35, § 1; S.L. 1899, ch. 58, § 1; S.L. 1903, ch. 181, § 1; S.L. 1923, ch. 227, § 3; S.L. 1933, ch. 189, § 1; S.L. 1943, ch. 207, § 1; S.L. 1947, ch. 200, § 5; S.L. 1977, ch. 104, § 5; S.L. 1987, ch. 290, § 1; S.L. 1993, ch. 218, § 7; S.L. 1993, ch. 247, § 1; S.L. 1995, ch. 243, § 2; S.L. 1999, ch. 242, § 1; S.L. 2001, ch. 29, § 11; S.L. 2005, ch. 32, § 13; S.L. 2013, ch. 203, § 1, eff. Aug. 1, 2013; S.L. 2021, ch. 191 (H.B. 1118), § 1, eff. April 22, 2021; S.L. 2021, ch. 192 (S.B. 2181), § 1, eff. Aug. 1, 2021; S.L. 2021, ch. 190 (H.B. 1418), § 1, eff. Aug. 1, 2021; S.L. 2021, ch. 92 (H.B. 1410), § 3, eff. Aug. 1, 2021; S.L. 2021, ch. 352 (H.B. 1247), § 107, eff. Sept. 1, 2022; S.L. 2023, ch. 229 (H.B. 1165), § 9, eff. July 1, 2023.

Codifications: R.C. 1895, §§ 240 to 242, 244, 252; R.C. 1899, §§ 240 to 242, 244, 252; R.C. 1905, §§ 252 to 254, 256, 258; C.L. 1913, §§ 397 to 399, 401, 403; 1925 Supp., § 396d3; R.C. 1943, § 23-0105; 1957 Supp., § 23-0105.

NDCC 23-01-05, ND ST 23-01-05

Current with legislation from the 2023 Regular Session and Special Session. The statutes are subject to change as determined by the North Dakota Code Revisor. (These changes will be incorporated later this year.)

End of Document

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Showing differences between versions effective [See Text Amendments] to April 21, 2021 and July 1, 2023 [current]

Key: deleted text added text 46 deletions · 39 additions

NDCC, 23-01-05

§ 23-01-05. Health officer--Qualifications, salary, term, duties--Advisory committee

- 1. The governor shall appoint the state health officer who at the time of appointment must be a physician with substantive private or public administrative experience and public health experience. The state health officer is entitled to receive a salary commensurate with that individual's training and experience. The governor shall set the salary of the state health officer within the limits of legislative appropriations to the department.
- 2. The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business.
- 3. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years.
- **4. If** [The governor shall appoint the state health officer who must have had substantive private or public administrative experience and demonstrated experience in the management of people. The state health officer is entitled to receive a salary commensurate with that person's training and experience. The governor shall set the salary | office | of the state health officer within the limits of legislative appropriations to the department. The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years beginning January 1 | filled temporarily |, 1993. The state health officer is the administrative officer of the state department of health. If the governor does not appoint as state health officer a physician licensed in this state, the governor shall appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer. Each member of the advisory committee is entitled to receive reimbursement of expenses in performing official duties in amounts provided by law for other state officers. The term of the advisory committee coincides with the term of the state health officer. A committee member serves at the pleasure of the governor. The duties of the state health officer are as follows:
- 5. The duties of the state health officer are as follows:
 - 1. Enforce all rules | a. Provide strategy | and regulations as promulgated by the | policy advice to improve | health council | and wellness |.
 - 2. Hold public health unit boards of health responsible for enforcement of state rules, serve | b. Serve | in an advisory capacity to | for local | public health unit boards of health, and provide for coordination of | local | health activities | officers |.
- 3. Establish and enforce minimum standards of performance of the work of the local department of health.
- 4. Study health problems and plan for their solution as may be necessary.

- 5. Collect, tabulate, and publish vital statistics for each important political or health administrative unit of the state and for the state as a whole.
 - 6 [c]. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions subject to the approval of the health council.
 - 7. Collect | d. Issue a written order relating to a disease control measure necessary to prevent the spread of a communicable disease. A disease control measure may include a special immunization activity | and distribute health education material | decontamination measure |.
 - 8. Maintain | (1) The state health officer shall limit a written order issued under this section to the geographical area affected by the communicable disease. The state health officer may not issue | a central public health laboratory and where necessary, branch laboratories for the standard function of diagnostic, sanitary | statewide order under this section unless the governor has declared a statewide disaster or emergency under chapter 37-17.1 | and chemical examinations, and production and procurement of therapeutic and biological preparations for the prevention | the governor consents to the order. The statewide order is limited in duration to the duration | of disease and their distribution for public health purposes | the declared disaster or emergency unless terminated earlier pursuant to chapter 37-17.1 |.
 - 9. Establish a service for medical hospitals and related institutions to include licensing of such institutions according to the standards promulgated by the health council and consultation service to communities planning the construction of new hospitals and related institutions | (2) A written order issued under this section has the same effect as a physician's standing medical order |.
- 10. Comply with the state merit system policies of personnel administration.
- 11. Establish a program to provide information to the surviving family of a child whose cause of death is suspected to have been the sudden infant death syndrome.
 - 12. Issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. Disease control measures may include special immunization activities and decontamination measures. Written orders issued under this section shall have the same effect as a physician's standing medical order. [(3)] The state health officer may | shall | apply to the district court in a judicial district where | in which | a communicable disease is present for an injunction canceling | a | public events | event | or closing places | a place | of business. On application of the state health officer showing the necessity of such | the | cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.
- 13. Make bacteriological examination of bodily secretions and excretions and of waters and foods.
 - 14. Make preparations and examinations of pathological tissues submitted by the state health officer, by any county superintendent | (4) Notwithstanding any other provision | of public health, or by any physician who has been regularly licensed | law, an order issued pursuant | to practice in this state. | subsection may not: |
- 15. Make all required analyses and preparations, and furnish the results thereof, as expeditiously and promptly as possible.
- 16. Cause sanitary statistics to be collected and tabulated, and cause to be ascertained by research work such methods as will lead to the improvement of the sanitation of the various parts of the state.

- 17. From time to time, cause to be issued bulletins and reports setting forth the results of the sanitary and pathological work done in the laboratories embodying all useful and important information resulting from the work carried on in the laboratories during the year, the substance of such bulletins and reports to be incorporated in the annual report of the state health officer.
- 18. Establish by rule a schedule of reasonable fees that may be charged for laboratory analysis. No charge may be made for any analysis conducted in connection with any public health incident affecting an entire region, community, or neighborhood.
- 19. a. Establish a review process for instances in which the department is requested to conduct an epidemiological assessment of a commercial building. The epidemiological assessment must include:
 - (1) A statement | a) Substantially burden a person's exercise | of whether there are known environmental eauses | religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest |;
 - (2) If there are known environmental causes identified, a recommendation | b) Treat religious conduct more restrictively than any secular conduct | of how they can be remediated or mitigated; and | reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or |
 - (3) If there are no known environmental causes identified, a statement that no known causes exist | c) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit |.
 - b. Costs for remediation, mitigation, and consultant services are the responsibility of the building owner. Proof of remediation of any identified environmental concern related to the epidemiological assessment is the burden of the building owner | (5) A person claiming to be aggrieved by a violation of paragraph 1 may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees |.
 - e. Perform all duties required or provided by law.

Credits

S.L. 1885, ch. 63, §§ 2, 3, 6, 15; S.L. 1889, ch. 22, § 1; S.L. 1897, ch. 35, § 1; S.L. 1899, ch. 58, § 1; S.L. 1903, ch. 181, § 1; S.L. 1923, ch. 227, § 3; S.L. 1933, ch. 189, § 1; S.L. 1943, ch. 207, § 1; S.L. 1947, ch. 200, § 5; S.L. 1977, ch. 104, § 5; S.L. 1987, ch. 290, § 1; S.L. 1993, ch. 218, § 7; S.L. 1993, ch. 247, § 1; S.L. 1995, ch. 243, § 2; S.L. 1999, ch. 242, § 1; S.L. 2001, ch. 29, § 11; S.L. 2005, ch. 32, § 13; S.L. 2013, ch. 203, § 1, eff. Aug. 1, 2013| ; S.L. 2021, ch. 191 (H.B. 1118), § 1, eff. April 22, 2021; S.L. 2021, ch. 192 (S.B. 2181), § 1, eff. Aug. 1, 2021; S.L. 2021, ch. 190 (H.B. 1418), § 1, eff. Aug. 1, 2021; S.L. 2021, ch. 92 (H.B. 1410), § 3, eff. Aug. 1, 2021; S.L. 2021, ch. 352 (H.B. 1247), § 107, eff. Sept. 1, 2022; S.L. 2023, ch. 229 (H.B. 1165), § 9, eff. July 1, 2023.

Codifications: R.C. 1895, §§ 240 to 242, 244, 252; R.C. 1899, §§ 240 to 242, 244, 252; R.C. 1905, §§ 252 to 254, 256, 258; C.L. 1913, §§ 397 to 399, 401, 403; 1925 Supp., § 396d3; R.C. 1943, § 23-0105; 1957 Supp., § 23-0105.

NDCC 23-01-05, ND ST 23-01-05

End of Document

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Sixty-seventh Legislative Assembly of North Dakota In Regular Session Commencing Tuesday, January 5, 2021

HOUSE BILL NO. 1465 (Representatives Westlind, Tveit, Weisz)

AN ACT to create and enact a new section to chapter 23-12 of the North Dakota Century Code, relating to vaccine information; to amend and reenact section 26.1-36-09.15 of the North Dakota Century Code, relating to coverage of telehealth services; to provide for a legislative management study; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 23-12 of the North Dakota Century Code is created and enacted as follows:

Vaccine and infection information.

- 1. Except as provided under sections 15.1-23-02, 23-01-05.3, and 23-07-17.1, neither a state government entity nor any of its subdivisions, agents, or assigns may:
 - a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to state property, funds, or services:
 - (1) An individual's vaccination status;
 - (2) The presence of pathogens, antigens, or antibodies; or
 - (3) An individual's post-transmission recovery status:
 - b. Otherwise publish or share an individual's vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or
 - c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:
 - (1) An individual's vaccination status;
 - (2) The presence of pathogens, antigens, or antibodies; or
 - (3) An individual's post-transmission recovery status.
- A private business located in this state may not require a patron or customer to provide any documentation certifying vaccination or post-transmission recovery to gain access to, entry upon, or services from the business. This subsection does not apply to a health care provider including a long-term care provider.
- 3. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.
- 4. Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the

- <u>circumstances under which such documentation may be shared, and exemptions from providing such documentation.</u>
- 5. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.
- 6. This section is limited in application to a vaccination authorized by the federal food and drug administration pursuant to an emergency use authorization.

SECTION 2. AMENDMENT. Section 26.1-36-09.15 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36-09.15. Coverage of telehealth services.

- As used in this section:
 - a. "Distant site" means a site at which a health care provider or health care facility is located while providing medical services by means of telehealth.
 - b. <u>"E-visit" means a face-to-face digital communication initiated by a patient to a provider through the provider's online patient portal.</u>
 - c. "Health care facility" means any office or institution at which health services are provided. The term includes hospitals; clinics; ambulatory surgery centers; outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted living facilities; laboratories; and offices of any health care provider.
 - e.d. "Health care provider" includes an individual licensed under chapter 43-05, 43-06, 43-12.1 as a registered nurse or as an advanced practice registered nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42, 43-44, 43-45, 43-47, 43-58, or 43-60.
 - d.e. "Nonpublic facing product" means a remote communication product that, as a default, allows only the intended parties to participate in the communication.
 - <u>f.</u> "Originating site" means a site at which a patient is located at the time health services are provided to the patient by means of telehealth.
 - e.g. "Policy" means an accident and health insurance policy, contract, or evidence of coverage on a group, individual, blanket, franchise, or association basis.
 - f.h. "Secure connection" means a connection made using a nonpublic facing remote communication product that employs end-to-end encryption, and which allows only an individual and the person with whom the individual is communicating to see what is transmitted.
 - i. "Store-and-forward technology" means electronic information, imaging, and communication that is transferred, recorded, or otherwise stored in order to be reviewed at a distant site at a later date by a health care provider or health care facility without the patient present in real time. The term includes telehome monitoring and interactive audio, video, and data communication.

g.i. "Telehealth":

(1) Means the use of interactive audio, video, or other telecommunications technology that is used by a health care provider or health care facility at a distant site to deliver health services at an originating site and that is delivered over a secure connection that complies with the requirements of state and federal laws.

- (2) Includes the use of electronic media for consultation relating to the health care diagnosis or treatment of a patient in real time or through the use of store-and-forward technology.
- (3) Does not include the use of audio-only telephone, electronic mail, or facsimile transmissions, or audio-only telephone unless for the purpose of e-visits or a virtual check-in.
- k. "Virtual check-in" means a brief communication via telephone or other telecommunications device to decide whether an office visit or other service is needed.
- 2. An insurer may not deliver, issue, execute, or renew a policy that provides health benefits coverage unless that policy provides coverage for health services delivered by means of telehealth which is the same as the coverage for health services delivered by in-person means.
- 3. Payment or reimbursement of expenses for covered health services delivered by means of telehealth under this section may be established through negotiations conducted by the insurer with the health services providers in the same manner as the insurer with the health services providers in the same manner as the insurer establishes payment or reimbursement of expenses for covered health services that are delivered by in-person means.
- 4. Coverage under this section may be subject to deductible, coinsurance, and copayment provisions.
- 5. This section does not require:
 - a. A policy to provide coverage for health services that are not medically necessary, subject to the terms and conditions of the policy;
 - A policy to provide coverage for health services delivered by means of telehealth if the policy would not provide coverage for the health services if delivered by in-person means;
 - c. A policy to reimburse a health care provider or health care facility for expenses for health services delivered by means of telehealth if the policy would not reimburse that health care provider or health care facility if the health services had been delivered by in-person means; or
 - d. A health care provider to be physically present with a patient at the originating site unless the health care provider who is delivering health services by means of telehealth determines the presence of a health care provider is necessary.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - HEALTH INSURANCE NETWORKS.

- 1. During the 2021-22 interim, the legislative management shall consider studying health insurance networks, including narrow networks. The study must include:
 - a. Consideration of the use and regulation of broad and narrow networks in the state by individuals and employers, the sales and marketing of broad and narrow networks, opportunities for consumer choice-of-provider, and premium differentials among states with choice-of-provider laws;
 - o. A review of legislative and court history regarding the impact of choice-of-provider laws on exclusive provider organizations and preferred provider organizations and how choice-of-provider laws apply to risk-pooled health plans regulated by the federal Employee Retirement Income Security Act of 1974;

- c. The impact of the consolidation of the health care market on consumer cash prices, insurance plan deductibles and premiums prices, and consumer options;
- d. A comparison of health maintenance organizations provider network designs and other health insurer provider network designs;
- e. A review of how vertical integrated networks utilize HMO plans; and
- f. A comparison of premiums of health benefit plans offered in the individual and small group markets in relation to the provider network design associated with those plans along with the growth of value-based purchasing.
- 2. The legislative management shall report its finding and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

H. B. NO. 1465 - PAGE 5

	Spe	aker of the House	President of the Sena	President of the Senate		
	Chie	ef Clerk of the House	Secretary of the Sena	ite		
Legislati	ive Assembly of No	rth Dakota and is known	e House of Representatives of the on the records of that body as House of Representatives voted in favor	e Bill No. 146		
Vote:	Yeas 72	Nays 14	Absent 8			
	Spe	aker of the House	Chief Clerk of the Ho	use		
This cer	tifies that two-thirds	of the members-elect of	the Senate voted in favor of said law	I.		
Vote:	Yeas 44	Nays 3	Absent 0			
	Pres	sident of the Senate	Secretary of the Sena	ite		
Receive	d by the Governor	atM. on		, 2021.		
Approve	ed atM. o	n		, 2021.		
			Governor			
Filed in	this office this	day of		, 2021,		
at	o'clock	M.				
			Secretary of State	_		

West's North Dakota Century Code Annotated
Title 23. Health and Safety
Chapter 23-12. Public Health, Miscellaneous Provisions

This section has been updated. Click here for the updated version.

NDCC, 23-12-20

2. A private business located in this state may not require a patron or customer to provide any documentation certifying vaccination or post-transmission recovery to gain access to, entry upon, or services from the business. This subsection does not apply to a health care provider including a long-term care provider.

(3) An individual's post-transmission recovery status.

- 3. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.
- 4. Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the circumstances under which such documentation may be shared, and exemptions from providing such documentation.
- 5. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.
- 6. This section is limited in application to a vaccination authorized by the federal food and drug administration pursuant to an emergency use authorization.

Credits

S.L. 2021, ch. 204 (H.B. 1465), § 1, eff. May 10, 2021.

NDCC 23-12-20, ND ST 23-12-20

Current with legislation from the 2023 Regular Session and Special Session. The statutes are subject to change as determined by the North Dakota Code Revisor. (These changes will be incorporated later this year.)

End of Document

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Sixty-seventh Legislative Assembly of North Dakota In Special Session Commencing Monday, November 8, 2021

HOUSE BILL NO. 1511
(Representatives Weisz, Becker, Devlin, Lefor, Meier, Paulson, Porter, Schauer)
(Senators Lee, Wardner)
(Approved by the Delayed Bills Committee)

AN ACT to create and enact a new section to chapter 34-03 of the North Dakota Century Code, relating to employer-required COVID-19 vaccinations; to amend and reenact sections 23-01-05.3 and 23-12-20 of the North Dakota Century Code, relating to vaccine passports and limitations on requiring documentation of COVID-19 vaccinations, antibodies, and post-transmission recovery status; to repeal section 23-12-20 of the North Dakota Century Code and section 2 of this Act, relating to limitations on requiring documentation of COVID-19 vaccinations, antibodies, and post-transmission recovery status and employer-required COVID-19 vaccinations; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-01-05.3 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.3. Immunization data. (Effective through August 31, 2022)

- 1. The state department of health may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The state department of health may only require the reporting of childhood immunizations and other data upon completion of the immunization information reporting system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.
- 2. If a health care provider fails to submit an immunization report required under this section within four weeks of vaccination:
 - a. That health care provider may not order or receive any vaccine from the North Dakota immunization program until that provider submits all reports required under this section.
 - b. The state department of health shall make a report to that health care provider's occupational licensing entity outlining that provider's failure to comply with the reporting requirements under this section.
- 3. Notwithstanding any other provision of law, a health care provider, elementary or secondary school, early childhood facility, public or private postsecondary educational institution, city or county board of health, district health unit, and the state health officer may exchange immunization data in any manner with one another. Immunization data that may be exchanged under this section is limited to the date and type of immunization administered to a patient and may be exchanged regardless of the date of the immunization.
- 4. The state department of health may not create, administer, provide, or contract for electronic machine-readable code or a vaccine passport.

Immunization data. (Effective after August 31, 2022)

- 1. The department of health and human services may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The department of health and human services may only require the reporting of childhood immunizations and other data upon completion of the immunization information reporting system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.
- 2. If a health care provider fails to submit an immunization report required under this section within four weeks of vaccination:
 - a. That health care provider may not order or receive any vaccine from the North Dakota immunization program until that provider submits all reports required under this section.
 - b. The department of health and human services shall make a report to that health care provider's occupational licensing entity outlining that provider's failure to comply with the reporting requirements under this section.
- 3. Notwithstanding any other provision of law, a health care provider, elementary or secondary school, early childhood facility, public or private postsecondary educational institution, city or county board of health, district health unit, and the state health officer may exchange immunization data in any manner with one another. Immunization data that may be exchanged under this section is limited to the date and type of immunization administered to a patient and may be exchanged regardless of the date of the immunization.
- 4. The department of health and human services may not create, administer, provide, or contract for electronic machine-readable code or a vaccine passport.

SECTION 2. AMENDMENT. Section 23-12-20 of the North Dakota Century Code is amended and reenacted as follows:

23-12-20. Vaccine COVID-19 vaccination and infection information.

- 1. Except as provided under sections 15.1-23-02, 23-01-05.3, and 23-07-17.1, neither Neither a state government entity nor any of its political subdivisions, agents, or assigns may:
 - Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to state property, funds, or services:
 - (1) An individual's COVID-19 vaccination status;
 - (2) The presence of <u>COVID-19</u> pathogens, antigens, or antibodies; or
 - (3) An individual's <u>COVID-19</u> post-transmission recovery status;
 - b. Otherwise publish or share an individual's <u>COVID-19</u> vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or
 - c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:
 - (1) An individual's <u>COVID-19</u> vaccination status;
 - (2) The presence of <u>COVID-19</u> pathogens, antigens, or antibodies; or

- (3) An individual's <u>COVID-19</u> post-transmission recovery status.
- 2. <u>Subsection 1 does not apply to the department of corrections and rehabilitation, a correctional facility as defined under section 12-44.1-01, the state hospital, or a public health unit.</u>
- 3. A private business located in this state or doing business in this state may not require a patron, client, or customer in this state to provide any documentation certifying COVID-19 vaccination, the presence of COVID-19 pathogens, antigens, or antibodies, or COVID-19 post-transmission recovery to gain access to, entry upon, or services from the business. This subsection does not apply to a developmental disability residential facility or a health care provider, including a long-term care provider, basic care provider, and assisted living provider. As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service.
- 3.4. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.
- 4.5. Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the circumstances under which such documentation may be shared, and exemptions from providing such documentation.
- 5.6. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.
 - 6. This section is limited in application to a vaccination authorized by the federal food and drug administration pursuant to an emergency use authorization
 - 7. As used in this section, the term "COVID-19" means severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2.

SECTION 3. A new section to chapter 34-03 of the North Dakota Century Code is created and enacted as follows:

COVID-19 vaccination requirements - Exemptions.

- 1. As used in this section, the term "COVID-19" means severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2.
- 2. If an employer or contractor requires an employee, prospective employee, or independent contractor in this state to be vaccinated against COVID-19 as a condition of employment or a term of a contract:
 - a. The employer or contractor shall allow the employee, prospective employee, or independent contractor to submit proof of COVID-19 antibodies as an exemption to the vaccination requirement. Such proof is valid for six months from the date of the antibody test.
 - b. The employer or contractor shall allow the employee, prospective employee, or independent contractor to submit to periodic COVID-19 tests as an exemption to the vaccination requirement.
 - c. The employer or contractor shall allow the employee, prospective employee, or independent contractor to submit one of the following certificates as an exemption to the vaccination requirement:

- (1) A certificate from a North Dakota licensed physician, physician assistant, or advanced practice registered nurse stating the physical condition of the employee, prospective employee, or independent contractor is such that immunization would endanger the life or health of the employee, prospective employee, or independent contractor; or
- (2) A certificate signed by the employee, prospective employee, or independent contractor stating the employee's, prospective employee's, or independent contractor's religious, philosophical, or moral beliefs are opposed to such immunization.
- 3. This section does not apply to the extent an employer or an independent contractor is required to comply with federal law, rules, or guidance relating to requirements for vaccinations for COVID-19 or resulting from Title 42, Code of Federal Regulations, part 416 et seq. [86 FR 61555 et seq. (2021)]; Title 29, Code of Federal Regulations, part 1910 et seq. [86 FR 61555 et seq. (2021)]; or the presidential executive order on ensuring adequate COVID safety protocols for federal contractors, issued September 9, 2021.

SECTION 4. REPEAL. Section 23-12-20 of the North Dakota Century Code and section 3 of this Act are repealed.

SECTION 5. EFFECTIVE DATE. Section 4 of this Act becomes effective August 1, 2023. The remainder of this Act becomes effective upon its filing with the secretary of state.

H. B. NO. 1511 - PAGE 5

	Speake	Speaker of the House Chief Clerk of the House		President of the Senate Secretary of the Senate	
	Chief C				
				Representatives of s of that body as Ho	
House Vote:	Yeas 76	Nays 11	Absent 7		
Senate Vote:	Yeas 33	Nays 14	Absent 0		
				Chief Clerk of the I	House
Received by th	e Governor at _	M. on			, 2021.
Approved at	M. on				, 2021.
				Governor	
Filed in this offi	ice this	day of			, 2021,
at o'	clock	M.			
				Secretary of State	

West's North Dakota Century Code Annotated
Title 23. Health and Safety
Chapter 23-12. Public Health, Miscellaneous Provisions

This section has been updated. Click here for the updated version.

NDCC, 23-12-20

§ 23-12-20. COVID-19 vaccination and infection information

1. Neither a state government entity nor any of its political subdivisions, agents, or assigns may:

- a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the
 - following before providing access to property, funds, or services:
 - (1) An individual's COVID-19 vaccination status;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - (3) An individual's COVID-19 post-transmission recovery status;
 - b. Otherwise publish or share an individual's COVID-19 vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or
 - c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:
 - (1) An individual's COVID-19 vaccination status;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - (3) An individual's COVID-19 post-transmission recovery status.
- 2. Subsection 1 does not apply to the department of corrections and rehabilitation, a correctional facility as defined under section 12-44.1-01, the state hospital, or a public health unit.
- 3. A private business located in this state or doing business in this state may not require a patron, client, or customer in this state to provide any documentation certifying COVID-19 vaccination, the presence of COVID-19 pathogens, antigens, or antibodies, or COVID-19 post-transmission recovery to gain access to, entry upon, or services from the business. This

subsection does not apply to a developmental disability residential facility or a health care provider, including a long-term care provider, basic care provider, and assisted living provider. As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service.

- 4. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.
- 5. Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the circumstances under which such documentation may be shared, and exemptions from providing such documentation.
- 6. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.
- 7. As used in this section, the term "COVID-19" means severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2.

Credits

S.L. 2021, ch. 204 (H.B. 1465), § 1, eff. May 10, 2021; S.L. 2021, Sp. Sess., ch. 558 (H.B. 1511), § 2, eff. Nov. 15, 2021.

Editors' Notes

REPEAL

<This section is repealed by S.L. 2021, Sp. Sess., ch. 558 (H.B. 1511), § 4, eff. Aug. 1, 2023.>

NDCC 23-12-20, ND ST 23-12-20

Current with legislation from the 2023 Regular Session and Special Session. The statutes are subject to change as determined by the North Dakota Code Revisor. (These changes will be incorporated later this year.)

End of Document

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Sixty-eighth Legislative Assembly of North Dakota In Regular Session Commencing Tuesday, January 3, 2023

SENATE BILL NO. 2274 (Senators Clemens, Beard, Larsen, Magrum) (Representative Vetter)

AN ACT to amend and reenact section 23-12-20 of the North Dakota Century Code, relating to vaccination and infection information.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-12-20 of the North Dakota Century Code is amended and reenacted as follows:

23-12-20. COVID-19 vaccination and infection information. (Repealed effective August 1, 2023)

- 1. Neither a state government entity nor any of its political subdivisions, agents, or assigns may:
 - a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to property, funds, or services:
 - (1) An individual's COVID-19 vaccination status <u>or vaccination status for a vaccine that</u> is under emergency use authorization from the federal food and drug administration;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - (3) An individual's COVID-19 post-transmission recovery status;
 - b. Otherwise publish or share an individual's COVID-19 vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or
 - c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:
 - (1) An individual's COVID-19 vaccination status <u>or vaccination status for a vaccine that</u> <u>is under emergency use authorization from the federal food and drug administration;</u>
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - (3) An individual's COVID-19 post-transmission recovery status.
- 2. Subsection 1 does not apply to the department of corrections and rehabilitation, a correctional facility as defined under section 12-44.1-01, the state hospital, or a public health unit.
- 3. A private business located in this state or doing business in this state may not require a patron, client, or customer in this state to provide any documentation certifying COVID-19 vaccination or vaccination authorized by the federal food and drug administration under emergency use authorization, the presence of COVID-19 pathogens, antigens, or antibodies, or COVID-19 post-transmission recovery to gain access to, entry upon, or services from the business. This subsection does not apply to a developmental disability residential facility or a health care provider, including a long-term care provider, basic care provider, and assisted living provider. As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service.

- 4. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.
- 5. Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the circumstances under which such documentation may be shared, and exemptions from providing such documentation.
- 6. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.
- 7. As used in this section, the term "COVID-19" means severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2.

S. B. NO. 2274 - PAGE 3

	Preside	President of the Senate Secretary of the Senate		Speaker of the House Chief Clerk of the House	
	Secreta				
			ne Senate of the t body as Senate I	Sixty-eighth Legislativ Bill No. 2274.	e Assembly o
Senate Vote:	Yeas 29	Nays 17	Absent 1		
House Vote:	Yeas 87	Nays 3	Absent 4		
				Secretary of the Sena	re
Received by th	e Governor at _	M. on			, 2023.
Approved at	M. on _				, 2023.
				Governor	
Filed in this offi	ice this	day of			2023
	clock				, 2023,
				Secretary of State	

West's North Dakota Century Code Annotated
Title 23. Health and Safety
Chapter 23-12. Public Health, Miscellaneous Provisions

NDCC, 23-12-20

§ 23-12-20. COVID-19 vaccination and infection information

Currentness

- 1. Neither a state government entity nor any of its political subdivisions, agents, or assigns may:
 - a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to property, funds, or services:
 - (1) An individual's COVID-19 vaccination status or vaccination status for a vaccine that is under emergency use authorization from the federal food and drug administration;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - (3) An individual's COVID-19 post-transmission recovery status;
 - b. Otherwise publish or share an individual's COVID-19 vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or
 - c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:
 - (1) An individual's COVID-19 vaccination status or vaccination status for a vaccine that is under emergency use authorization from the federal food and drug administration;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - (3) An individual's COVID-19 post-transmission recovery status.
- 2. Subsection 1 does not apply to the department of corrections and rehabilitation, a correctional facility as defined under section 12-44.1-01, the state hospital, or a public health unit.

- 3. A private business located in this state or doing business in this state may not require a patron, client, or customer in this state to provide any documentation certifying COVID-19 vaccination or vaccination authorized by the federal food and drug administration under emergency use authorization, the presence of COVID-19 pathogens, antigens, or antibodies, or COVID-19 post-transmission recovery to gain access to, entry upon, or services from the business. This subsection does not apply to a developmental disability residential facility or a health care provider, including a long-term care provider, basic care provider, and assisted living provider. As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service.
- 4. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.
- 5. Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the circumstances under which such documentation may be shared, and exemptions from providing such documentation.
- 6. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.
- 7. As used in this section, the term "COVID-19" means severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2.

Credits

S.L. 2021, ch. 204 (H.B. 1465), § 1, eff. May 10, 2021; S.L. 2021, Sp. Sess., ch. 558 (H.B. 1511), § 2, eff. Nov. 15, 2021; S.L. 2023, ch. 248 (S.B. 2274), § 1, eff. Aug. 1, 2023.

NDCC 23-12-20, ND ST 23-12-20

Current with legislation from the 2023 Regular Session and Special Session. The statutes are subject to change as determined by the North Dakota Code Revisor. (These changes will be incorporated later this year.)

End of Document

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Sixty-seventh Legislative Assembly of North Dakota In Regular Session Commencing Tuesday, January 5, 2021

HOUSE BILL NO. 1323 (Representatives Hoverson, Magrum) (Senator O. Larsen)

AN ACT to create and enact a new section to chapter 23-07 of the North Dakota Century Code, relating to limitations on mask wearing requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 23-07 of the North Dakota Century Code is created and enacted as follows:

Limitations on requirements to wear a mask.

A statewide elected official or the state health officer may not mandate an individual in this state use a face mask, face shield, or other face covering. This section applies, notwithstanding authority granted under other provisions of law, including section 23-01-05 and chapter 37-17.1.

H. B. NO. 1323 - PAGE 2

	Speake	Speaker of the House Chief Clerk of the House		President of the Senate Secretary of the Senate	
	Chief C				
				Representatives of t s of that body as Hou	
House Vote:	Yeas 67	Nays 24	Absent 3		
Senate Vote:	Yeas 30	Nays 17	Absent 0		
				Chief Clerk of the F	louse
Received by th	e Governor at _	M. on			, 2021.
Approved at	M. on				, 2021.
				Governor	
Filed in this offi	ice this	day of			, 2021,
at o'	clock	M.			
				Secretary of State	

H. B. NO. 1323 - PAGE 3

Honorable Al Jaeger Secretary of State Bismarck, North Dakota

I certify this Act, House Bill No. 1323, together with the objections of Governor Burgum, was returned to the House, being the body in which it originated, on April 22, 2021; that the objections of the Governor were read at length on April 22, 2021, and entered upon the Journal; that the Bill was taken up for reconsideration; that the motion for reconsideration prevailed on April 22, 2021, at 12:46 p.m.; and the roll was called and the Bill did pass, with more than two-thirds of the members-elect voting in the affirmative.

Vote: Yeas 66

Nays 27

1

Absent and not voting

Speaker of the House

Chief Clerk of the House

H. B. NO. 1323 - PAGE 4

Honorable Al Jaeger Secretary of State Bismarck, North Dakota

I certify this Act, House Bill No. 1323, together with the objections of Governor Burgum, was received from the House, being the body in which it originated, on April 22, 2021; that the objections of the Governor were read at length on April 22, 2021, and entered upon the Journal; that the Bill was taken up for reconsideration; that the motion for reconsideration prevailed on April 22, 2021, at 5:26 p.m.; and the roll was called and the Bill did pass, with more than two-thirds of the members-elect voting in the affirmative.

Vote: Yeas 32

Nays 15

Absent and not voting 0

Dunaidant of the Counts

President of the Senate

Secretary of the Senate

West's North Dakota Century Code Annotated Title 23. Health and Safety Chapter 23-07. Reportable Diseases

NDCC, 23-07-12.1

§ 23-07-12.1. Limitations on requirements to wear a mask

Currentness

A statewide elected official or the state health officer may not mandate an individual in this state use a face mask, face shield, or other face covering. This section applies, notwithstanding authority granted under other provisions of law, including section 23-01-05 and chapter 37-17.1.

Credits

S.L. 2021, ch. 198 (H.B. 1323), § 1, eff. Aug. 1, 2021.

NDCC 23-07-12.1, ND ST 23-07-12.1

Current with legislation from the 2023 Regular Session and Special Session. The statutes are subject to change as determined by the North Dakota Code Revisor. (These changes will be incorporated later this year.)

End of Document

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Home / State Health Officer Orders

State Health Officer Orders

April 30, 2021 | Testing Order ☐ | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Wells County

April 30, 2021 | Testing Order ☐ | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Walsh County

April 30, 2021 | Testing Order ☐ | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Divide County, McKenzie County, Mountrail County, and Williams County

April 30, 2021 | Testing Order ☐ | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Traill County

April 30, 2021 | Testing Order ☐ | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Towner County

April 30, 2021 | Testing Order | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Steele County

April 30, 2021 | Testing Order ☐ | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Adams County, Billings County, Bowman County, Dunn County, Golden Valley County, Hettinger County, Slope County, and Stark County

April 30, 2021 | Testing Order | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Sargent County

April 30, 2021 | Testing Order ☐ | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Rolette County

April 30, 2021 | Testing Order ☐ | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Richland County

State Health Officer Order for BinaxNow testing in Ransom County

State Health Officer Order for BinaxNow testing in Pembina County

April 30, 2021 | Testing Order ☐ | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Nelson County and Griggs County

April 30, 2021 | Testing Order ☐ | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in McIntosh County

April 30, 2021 | Testing Order | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in LaMoure County

April 30, 2021 | Testing Order | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Benson County, Eddy County, Pierce County, and Ramsey County

April 30, 2021 | Testing Order ☐ | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Kidder County

April 30, 2021 | Testing Order ☐ | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Grand Forks County

April 30, 2021 | Testing Order ☐ | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Foster County

April 30, 2021 | Testing Order ☐ | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Bottineau County, Burke County, McHenry County, McLean County, Renville County, Sheridan County, and Ward County

April 30, 2021 | Testing Order ☐ | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Cass County

April 30, 2021 | Testing Order ☐ | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Emmons County

April 30, 2021 | Testing Order ☐ | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Dickey County

State Health Officer Order for BinaxNow testing in Grant County, Mercer County, Morton County, Oliver County, and Sioux County

April 30, 2021 | Testing Order ☐ | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Barnes County

April 30, 2021 | Testing Order ☐ | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Logan County and Stutsman County

April 30, 2021 | Testing Order | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Cavalier County

April 30, 2021 | Testing Order | BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Burleigh County

April 30, 2021 | Order #2020-07.1 | Revocation of order #2020-07

This Order revokes Order # 2020-07 State Health Officer Order for Disease Control Measures to Prevent the Spread of 2019-nCoVICOVID-19 Pursuant to North Dakota Century Code§ 23-1-05(12), dated April 26, 2020.

April 30, 2021 | Order #2020-05.3 []; | Revocation of order #2020-05.2

This Order revokes Order # 2020-05.2 State Health Officer Confinement Order Relating to Disease Control Measures to Prevent the Spread of 2019-nCoVICOVID-19 Pursuant to North Dakota Century Code§ 23-1-05(12), dated November 9, 2020.

State Health Officer Order for BinaxNow testing.

The mask order requires face coverings in indoor businesses and indoor public settings, as well as in outdoor business and public settings when it's not possible to maintain physical distancing through January 17. Please also see the FAQ document ...

November 13, 2020 | Order #2020-08 [] | Mask Order

The mask order requires face coverings in indoor businesses and indoor public settings, as well as in outdoor business and public settings when it's not possible to maintain

physical distancing. Please also see the FAQ document

November 9, 2020 | Order #2020-05.2 🕞 | Amended Isolation Order

Allows **asymptomatic**, COVID-positive health care workers to work in the COVID unit of a licensed health care facility, so long as they remain asymptomatic and additional precautions are taken as recommended by the CDC and ND Department of Health to protect the worker and the community.

September 26, 2020 | Order #2020-06.2 ☐ | Rescinded Close Contact Quarantine Order

Lifts the close contact quarantine order. Please note: Although the close contact order has been rescinded, quarantining when you're a close contact is still necessary and recommended by both the NDDoH and the CDC.

September 23, 2020 | Order #2020-06.1 | Amended Quarantine Order to Add Close Contacts

In addition to household contacts, close contacts must also quarantine if they're named as close contacts. Workforce exemptions still apply.

Lifts the 14-day quarantine order for those returning from international travel.

Allows people to travel freely in within the United States and releases requirements for everyone except international travelers. Exemptions are made for people commuting to and from ND for work, essential critical infrastructure workers and university students enrolled in a college or university located in ND, with restrictions. Find more information on the NDDoH travel website.

June 9, 2020 | Testing Order ☐ | First District Health Unit

State Health Officer Order for First District Health Unit testing for 2019-nCoV/COVID-19.

May 26, 2020 | Testing Order ☐ | Long Term Care

State Health Officer Order for testing for 2019nCoV/COVID-19 as a Disease Control Measures to prevent the spread 2019-nCoV/COVID-19.

May 14, 2020 | Testing Order ☐ | Grand Forks County

Grand Forks Public Health Department staff will conduct all testing for 2019-nCoV/COVID-19 authorized by this order

Allows people to travel freely in within the United States and releases requirements for everyone except international travelers. Find more information on the NDDoH travel website.

May 8, 2020 | Order #2020.05.1 | Amended Order for Positive Cases

Updates the time a person who tests positive must isolate from seven days to 10 days to align with CDC recommendations.

April 26, 2020 | Order #2020-07 ☐ | COVID-19 Named Post-mortem Communicable Disease

For the purpose of the application of ND Administrative Code chapter 33-05-02, COVID-19 is declared a "post-mortem communicable disease."

April 18, 2020 | Quarantine Order . | LM Quarantine Executed

All persons employed by LM Power (ND), INC. located in Grand Forks, North Dakota, are subject to an order to quarantine.

April 10, 2020 | Order #2020-06 | Provides exemptions for essential workforce who are household contacts of people who test positive

Provides workforce exemptions for individuals who are household contacts of individuals who

have tested positive for COVID-19 as defined by the U.S. Department of Homeland Security

CDC Guidance for Workers Exposed to COVID-19

April 8, 2020 | Order #2020.05 ☐ | Order for positive cases

Individuals in the state who have been identified by the ND Department of Health as being positive for COVID-19 are subject to isolation immediately upon notification and for at least seven days after the onset of symptoms and 72 hours after becoming fever free and with symptom improvement.

April 8, 2020 | Order #2020.02.1 | Travel quarantine order

Find more information on the NDDoH travel website.

April 4, 2020 | Order #2020-03 ☐ | Order for testing

For individuals residing in Southwestern
District Health Unit to be tested for COVID19 for the duration of the declared emergency.

Also See the Governor's Executive Orders

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Showing differences between versions effective [See Text Amendments] to April 21, 2021 and July 1, 2023 [current]

Key: deleted text added text 46 deletions · 39 additions

NDCC, 23-01-05

§ 23-01-05. Health officer--Qualifications, salary, term, duties--Advisory committee

- 1. The governor shall appoint the state health officer who at the time of appointment must be a physician with substantive private or public administrative experience and public health experience. The state health officer is entitled to receive a salary commensurate with that individual's training and experience. The governor shall set the salary of the state health officer within the limits of legislative appropriations to the department.
- 2. The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business.
- 3. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years.
- **4. If** [The governor shall appoint the state health officer who must have had substantive private or public administrative experience and demonstrated experience in the management of people. The state health officer is entitled to receive a salary commensurate with that person's training and experience. The governor shall set the salary [office] of the state health officer within the limits of legislative appropriations to the department. The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years beginning January 1 [filled temporarily], 1993. The state health officer is—the administrative officer of the state department of health. If the—governor does not appoint as state health officer a physician licensed in this state, the governor—shall appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer. Each member of the advisory committee is entitled to receive reimbursement of expenses in performing official duties in amounts provided by law for other state officers. The term of the advisory committee coincides with the term of the state health officer. A committee member serves at the pleasure of the governor. The duties of the state health officer are as follows:
- 5. The duties of the state health officer are as follows:
 - 1. Enforce all rules | a. Provide strategy | and regulations as promulgated by the | policy advice to improve | health council | and wellness |.
 - 2. Hold public health unit boards of health responsible for enforcement of state rules, serve | b. Serve | in an advisory capacity to | for local | public health unit boards of health, and provide for coordination of | local | health activities | officers |.
- 3. Establish and enforce minimum standards of performance of the work of the local department of health.
- 4. Study health problems and plan for their solution as may be necessary.

- 5. Collect, tabulate, and publish vital statistics for each important political or health administrative unit of the state and for the state as a whole.
 - 6 [c]. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions subject to the approval of the health council.
 - 7. Collect | d. Issue a written order relating to a disease control measure necessary to prevent the spread of a communicable disease. A disease control measure may include a special immunization activity | and distribute health education material | decontamination measure |.
 - 8. Maintain | (1) The state health officer shall limit a written order issued under this section to the geographical area affected by the communicable disease. The state health officer may not issue | a central public health laboratory and where necessary, branch laboratories for the standard function of diagnostic, sanitary | statewide order under this section unless the governor has declared a statewide disaster or emergency under chapter 37-17.1 | and chemical examinations, and production and procurement of therapeutic and biological preparations for the prevention | the governor consents to the order. The statewide order is limited in duration to the duration | of disease and their distribution for public health purposes | the declared disaster or emergency unless terminated earlier pursuant to chapter 37-17.1 |.
 - 9. Establish a service for medical hospitals and related institutions to include licensing of such institutions according to the standards promulgated by the health council and consultation service to communities planning the construction of new hospitals and related institutions | (2) A written order issued under this section has the same effect as a physician's standing medical order |.
- 10. Comply with the state merit system policies of personnel administration.
- 11. Establish a program to provide information to the surviving family of a child whose cause of death is suspected to have been the sudden infant death syndrome.
 - 12. Issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. Disease control measures may include special immunization activities and decontamination measures. Written orders issued under this section shall have the same effect as a physician's standing medical order. [(3)] The state health officer may | shall | apply to the district court in a judicial district where | in which | a communicable disease is present for an injunction canceling | a | public events | event | or closing places | a place | of business. On application of the state health officer showing the necessity of such | the | cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.
- 13. Make bacteriological examination of bodily secretions and excretions and of waters and foods.
 - 14. Make preparations and examinations of pathological tissues submitted by the state health officer, by any county superintendent | (4) Notwithstanding any other provision | of public health, or by any physician who has been regularly licensed | law, an order issued pursuant | to practice in this state. | subsection may not: |
- 15. Make all required analyses and preparations, and furnish the results thereof, as expeditiously and promptly as possible.
- 16. Cause sanitary statistics to be collected and tabulated, and cause to be ascertained by research work such methods as will lead to the improvement of the sanitation of the various parts of the state.

- 17. From time to time, cause to be issued bulletins and reports setting forth the results of the sanitary and pathological work done in the laboratories embodying all useful and important information resulting from the work carried on in the laboratories during the year, the substance of such bulletins and reports to be incorporated in the annual report of the state health officer.
- 18. Establish by rule a schedule of reasonable fees that may be charged for laboratory analysis. No charge may be made for any analysis conducted in connection with any public health incident affecting an entire region, community, or neighborhood.
- 19. a. Establish a review process for instances in which the department is requested to conduct an epidemiological assessment of a commercial building. The epidemiological assessment must include:
 - (1) A statement | a) Substantially burden a person's exercise | of whether there are known environmental eauses | religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest |;
 - (2) If there are known environmental causes identified, a recommendation | b) Treat religious conduct more restrictively than any secular conduct | of how they can be remediated or mitigated; and | reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or |
 - (3) If there are no known environmental causes identified, a statement that no known causes exist | c) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit |.
 - b. Costs for remediation, mitigation, and consultant services are the responsibility of the building owner. Proof of remediation of any identified environmental concern related to the epidemiological assessment is the burden of the building owner | (5) A person claiming to be aggrieved by a violation of paragraph 1 may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees |.
 - e. Perform all duties required or provided by law.

Credits

S.L. 1885, ch. 63, §§ 2, 3, 6, 15; S.L. 1889, ch. 22, § 1; S.L. 1897, ch. 35, § 1; S.L. 1899, ch. 58, § 1; S.L. 1903, ch. 181, § 1; S.L. 1923, ch. 227, § 3; S.L. 1933, ch. 189, § 1; S.L. 1943, ch. 207, § 1; S.L. 1947, ch. 200, § 5; S.L. 1977, ch. 104, § 5; S.L. 1987, ch. 290, § 1; S.L. 1993, ch. 218, § 7; S.L. 1993, ch. 247, § 1; S.L. 1995, ch. 243, § 2; S.L. 1999, ch. 242, § 1; S.L. 2001, ch. 29, § 11; S.L. 2005, ch. 32, § 13; S.L. 2013, ch. 203, § 1, eff. Aug. 1, 2013| ; S.L. 2021, ch. 191 (H.B. 1118), § 1, eff. April 22, 2021; S.L. 2021, ch. 192 (S.B. 2181), § 1, eff. Aug. 1, 2021; S.L. 2021, ch. 190 (H.B. 1418), § 1, eff. Aug. 1, 2021; S.L. 2021, ch. 92 (H.B. 1410), § 3, eff. Aug. 1, 2021; S.L. 2021, ch. 352 (H.B. 1247), § 107, eff. Sept. 1, 2022; S.L. 2023, ch. 229 (H.B. 1165), § 9, eff. July 1, 2023.

Codifications: R.C. 1895, §§ 240 to 242, 244, 252; R.C. 1899, §§ 240 to 242, 244, 252; R.C. 1905, §§ 252 to 254, 256, 258; C.L. 1913, §§ 397 to 399, 401, 403; 1925 Supp., § 396d3; R.C. 1943, § 23-0105; 1957 Supp., § 23-0105.

NDCC 23-01-05, ND ST 23-01-05

End of Document

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"Notwithstanding any other provision of law, a state agency, political subdivision, or any other governmental entity, may not require an individual to take, receive, or disclose whether the individual has taken or received a vaccine or similar product to diagnose or manage a disease."

2025 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee

Room JW327C, State Capitol

HB 1454 2/19/2025

A BILL for an Act to create and enact a new section to chapter 32-12.1 of the North Dakota Century Code, relating to the medical liability of a government entity.

4:43 p.m. Chairman Warrey opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, Brown, Finley-DeVille, Grindberg, Kasper, Koppelman, D. Ruby, Schatz, Schauer, Vollmer

Member Absent: Representative Christy

Discussion Topics:

- Opt out
- Exemptions
- Intent covered
- Medical product definition

4:44 p.m. Representative Koppelman presented an email from Allyson Hicks, Assistant Attorney General, General Counsel Division, ND Office of the Attorney General #38106.

4:47 p.m. Donna Henderson, District 15, Calvin, ND, available for guestions.

4:57 p.m. Representative Koppelman moved to adopt amendments found in #38106 and #38107.

4:57 p.m. Representative Kasper seconded the motion.

Voice vote. Motion passed.

4:59 p.m. Representative Koppelman moved Do Pass as amended.

4:59 p.m. Representative D. Ruby seconded the motion.

Representatives	Vote
Representative Jonathan Warrey	Υ
Representative Mitch Ostlie	N
Representative Landon Bahl	Υ
Representative Collette Brown	Υ
Representative Josh Christy	AB
Representative Lisa Finley-DeVille	Υ
Representative Karen Grindberg	Y

House Industry, Business and Labor Committee HB 1454 02/19/25 Page 2

Representative Jorin Johnson	Y
Representative Jim Kasper	Υ
Representative Ben Koppelman	Υ
Representative Dan Ruby	Υ
Representative Mike Schatz	Υ
Representative Austin Schauer	Υ
Representative Daniel R. Vollmer	у

Motion passed 11-1-1

5:02 p.m. Representative Schatz will carry the bill.

Additional Written Testimony:

Allyson M. Hicks, Assistant Attorney General, General Counsel for ND Heath and Human Services, Office of Attorney General, submitted additional information #38106.

5:02 p.m. Chairman Warrey adjourned the hearing.

Diane Lillis, Committee Clerk

Adopted by the Industry, Business and

25.0975.01004 Title.02000

Sixty-ninth Legislative Assembly of North Dakota

Labor Committee February 19, 2025

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1454

Introduced by

Representatives Henderson, K. Anderson, Frelich, Hauck, Kasper Senators Paulson, Clemens

- 1 A BILL for an Act to create and enact a new section to chapter 32-12.1 of the North Dakota
- 2 Century Code, relating to the medical liability of a government entity an opt-out procedure for
- 3 required vaccines.

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4 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

5 SECTION 1. A new section to chapter 32-12.1 of the North Dakota Century Code is created 6 and enacted as follows: 7 Medical liability of government entityRequired vaccine - Opt-out procedure.

- As used in this section, "medical product" means a product used to diagnose or manage a disease, including a medical device, drug, or biologic.
- -Notwithstanding any other provision of law, a state agency, political subdivision, or any other government entity, may not require an individual to take, or receive, or disclose whether the individual has taken or received a medical product unless the manufacturer of the medical product is liable for any death or serious injury caused by the medical product a vaccine or similar product used to prevent a disease, unless there is a procedure made available for an opt-out for health, religious, or philosophical reasons.
 - This section is not applicable to the department of corrections and rehabilitation.
- For a school, day care center, child care facility, head start program, or nursery school, the provisions of section 23-07-17.1 must be followed for vaccines and vaccine opt-out provisions.

Module ID: h_stcomrep_30_011 Carrier: Schatz Insert LC: 25.0975.01004 Title: 02000

REPORT OF STANDING COMMITTEE HB 1454

Industry, Business and Labor Committee (Rep. Warrey, Chairman) recommends AMENDMENTS (25.0975.01004) and when so amended, recommends DO PASS (11 YEAS, 1 NAY, 1 ABSENT OR EXCUSED AND NOT VOTING). HB 1454 was placed on the Sixth order on the calendar.

From: Warrey, Jonathan

To:
Lillis, Diane - HClerk2 - HIBL - HAGR; Mastel, Allan - HTechClerk2 - HIBL - HAGR; Bernhagen, Jordan - NDLA,
Intern 08; Bahl, Landon; Brown, Collette; Christy, Josh; Finley-DeVille, Lisa; Grindberg, Karen; Johnson, Jorin;

Kasper, Jim M.; Koppelman, Ben; Ostlie, Mitch; Ruby, Dan J.; Schatz, Mike A.; Schauer, Austen; Vollmer, Dan

Subject: FW: HB1454

Date: Wednesday, February 19, 2025 4:48:57 PM

Jonathan Warrey ND State Representative District 22 701-388-3417

jwarrey@ndlegis.gov



From: Hicks, Allyson M. <ahicks@nd.gov> **Sent:** Wednesday, February 19, 2025 4:32 PM **To:** Koppelman, Ben <bkoppelman@ndlegis.gov>

Cc: Henderson, Donna < dhenderson@ndlegis.gov>; Warrey, Jonathan < jwarrey@ndlegis.gov>

Subject: RE: HB1454

Good afternoon,

The Department would not be amenable to this language, and would remain opposed to the bill in the format proposed below as it is unnecessary and confusing. Ultimately, however, the policy is the legislature's choice.

Unfortunately, I have to leave the office for the day to take my daughter to a practice and will be unable to attend committee work this afternoon. Please let me know if you have any further questions.

Thank you,

Allyson M. Hicks Assistant Attorney General General Counsel Division Office of Attorney General 600 E Boulevard Ave. Bismarck, ND 58505-0040 ahicks@nd.gov (701) 328-2210 ND ID # 07293

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25.0975.01000

Sixty-ninth Legislative Assembly of North Dakota

HOUSE BILL NO. 1454

Introduced by

Representatives Henderson, K. Anderson, Frelich, Hauck, Kasper Senators Paulson, Clemens

- 1 A BILL for an Act to create and enact a new section to chapter 32-12.1 of the North Dakota
- 2 Century Code, relating to the medical liability of a government entity.

3 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

- 4 **SECTION 1.** A new section to chapter 32-12.1 of the North Dakota Century Code is created and enacted as follows:
- 6 Medical liability of government entity.
- 7 1. As used in this section, "medical product" means a product used to diagnose or manage a disease, including a medical device, drug, or biologic.
- 9 2. Notwithstanding any other provision of law, a state agency, political subdivision, or any
 10 other government entity, may not require an individual to take, or receive, or disclose
- 11 whether the individual has taken or received a medical product unless the
- 12 manufacturer of the medical product is liable for any death or serious injury caused by
- the medical product, a vaccine or similar product used to prevent a disease unless there
 is a procedure made available to opt-out for health, religious, or philosophical reasons.
- This section does not applicable to the department of corrections and rehabilitation.
- 4. For a school, daycare center, child care facility, head start program, or nursery school, the provisions of section 23-07-17.1 must be followed for vaccines and vaccine opt-out provisions.

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From: Koppelman, Ben < bkoppelman@ndlegis.gov>
Sent: Wednesday, February 19, 2025 3:22 PM

To: Hicks, Allyson M. ahicks@nd.gov>

Cc: Henderson, Donna < dhenderson@ndlegis.gov>

Subject: FW: HB1454

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Allyson,

Check out this language and see if this would work possibly with a clause that it doesn't apply to DOCR and a clause that for any of the required vaccines for kids, that an individual would have to follow the procedures outlined in 23-07-17.1 in order to opt out.

Rep. Ben Koppelman District 16 701-491-0665 2025 SENATE HUMAN SERVICES
HB 1454

2025 SENATE STANDING COMMITTEE MINUTES

Human Services Committee

Fort Lincoln Room, State Capitol

HB 1454 3/11/2025

A BILL for an Act to create and enact a new section to chapter 32-12.1 of the North Dakota Century Code, relating to an opt-out procedure for required vaccines.

3:12 p.m. Chairman Lee opened the hearing.

Members Present: Chairman Lee, Vice-Chairman Weston, Senator Van Oosting, Senator Clemens, Senator Hogan, Senator Roers.

Discussion Topics:

- Ongoing Epidemics
- Educational Initiatives
- Texas Measles Outbreak
- 3:12 p.m. Representative Donna Henderson, District 15, introduced the bill and submitted testimony #40647, #40648 and #40649.
- 3:30 p.m. Julie Hess testified in favor and submitted written testimony #39912.
- 3:40 p.m. Molly Howell, Immunization Director with ND Department of Health and Human Services, testified in opposition and submitted testimony #40165.
- 3:47 p.m. Allyson Hicks, General Counsel, Health and Human services, testified in opposition.
- 3:52 p.m. Brenda Stallman, Executive Director, Traill District Health Unit, testified in opposition and submitted testimony #40674.
- 4:00 p.m. Barbara Frydenlund, Nursing Administrator of Rolette County Public Health, testified in opposition.

Additional written testimony:

Kimberly Jacobson, Director with Agassiz Valley Human Service Zone, submitted written testimony in opposition #40294.

Courtney Koebele, NDMA, submitted written testimony in favor #40151.

4:48 p.m. Chairman Lee adjourned the meeting.

Andrew Ficek. Committee Clerk

Please Support HB1454, an opt out, as we have had enough deaths, and permanently injured adults and children! I think we all should have learned a very painful lesson the last few years. People were threatened and coerced into take the jab or loosing their jobs, etc. People died and big pharma lied. The MRNA jab causes heart inflammation, blood clots, turbo cancers, neurological conditions, and deaths. Young people are dropping like flies on the playing field-dying suddenly! Our children are used as pin cushions after Reagan signed a bill to protect big pharma from lawsuits from vaccination injuries and deaths. Before that, a child would receive one or two shots and afterwards it escalated to close to 100 shots by the time they are 18! With that the increase of ADHD and childhood cancers! One in 36 children now have autism compared to

one in 10,000 years ago. It is eye opening to find out that these so called shots are filled with aluminum, mercury, formaldehyde, beta-propiolactone, aborted fetal tissue, animal cells like horse blood, calf serum, chick embryos to name a few!! I have a list to show what is each vaccine. I dont think you can find it online anymore and doctors don't tell parents what they are injecting into your children because they get paid to fully vaccinate each Child, up to \$50,000 paid by Blue Cross and other insurers. These shots are most entirely made in China and less than 15% are tested for safety! Just like our antibiotics and many other prescription drugs are made there. Parents voices have been silenced about vaccine deaths and injuries to their children. We see that kids are sicker than ever, no immune systems left. Many children have allergies, too, and

these shots can cause allergic reactions if it were given at school without a parents consent. In Texas, there was a free measles shot clinic in the county where the measles shots where given. It is a live virus and people can shed up to 30 days and even up to 100! Measles and polio were almost eradicated before any vaccines were made because of the people getting indoor plumbing and better sanitation. Messing with live viruses and using people and children as experiments and pin cushions has to stop! Bottom line there should never be anything forced, everything should be a choice, as then it is unconstitutional and communism! We NEED a definite opt out! I hope we don't have to learn anymore painful lessons and our children deserve better!! Please support important HB1454!!



Senate Human Services Committee

HB 1454

March 11, 2025

Chair Lee and Committee Members, I am Courtney Koebele and represent 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 1454. Ultimately, this legislation could have unintended consequences limiting certain government entities from protecting employees and patients.

- This legislation does not provide an exception to law enforcement (i.e., hepatitis B), the state hospital, veterans homes, and local public health departments.
- This legislation would eliminate administrative rules requiring tattoo artists to have hepatitis B vaccine.
- Extensive research involving thousands of studies and millions of people over decades of work supports the safety of vaccines for most people.
- Community immunity is essential to protecting people who cannot get vaccinated, and the amended bill still weakens vaccine requirements and increases risk of disease outbreaks.

NDMA urges a DO NOT PASS of HB 1454. Thank you for the opportunity to address this committee.



Testimony House Bill No. 1454 Senate Human Services Senator Lee, Chairwoman

March 11, 2025

Chairwoman Lee, and members of the Human Services Committee, I am Molly Howell, Immunization Director with the Department of Health and Human Services (Department). I appear before you in opposition of House Bill No. 1454.

House Bill No. 1454 would require state agencies, political subdivisions and other government entities to have a procedure for opting out of vaccine requirements. An exception is included for the Department of Corrections. Having opt-out procedures for vaccine requirements in all situations could have unintended consequences. Listed below are some potential examples:

- Law enforcement losing the ability to require hepatitis B vaccine to protect officers from infection due to needlesticks.
- Local correctional facilities being unable to respond and prevent the spread of infectious diseases through post-exposure vaccination in jails.
- Local public health being unable to require vaccination of staff needing to respond to vaccine preventable disease outbreaks, including measles.
- The Department from being unable to require meningitis or rabies vaccine for laboratory workers needing to process meningococcal or rabies specimens.
- Group homes being unable to respond and prevent the spread of infectious diseases, including measles, through vaccination.



• The Veterans Home or State Hospital being unable to require vaccination of staff or residents, even during a future pandemic.

As a reminder, during the 68th Legislative Assembly, the Legislature passed Senate Bill No. 2274, which already prohibits COVID-19 and other emergency use authorized vaccine requirements. House Bill No. 1454 would go further and hamper the ability of certain government entities from preventing the spread of vaccine preventable diseases.

The Department is proposing amendments to House Bill No. 1454, which include additional exceptions for a correctional facility as defined under section 12-44.1-01, the state hospital, or a public health unit. Additional exceptions are also requested for a developmental disability residential facility or a health care provider, including a long-term care provider, basic care provider, and assisted living provider. The Department would also request language be added to reflect that this law not be applicable during a public health disaster or emergency declared in accordance with chapter 31-17.1.

In conclusion, this bill limits the ability of certain government entities, including the State Hospital, group homes, local public health, local law enforcement, local correctional facilities, and the Veterans Home from offering the safest work environment for employees and the safest environment for customers, residents and patients.

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

Sixty-ninth Legislative Assembly of North Dakota

Introduced by

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PROPOSED AMENDMENTS TO FIRST ENGROSSMENT HOUSE BILL NO. 1454

Representatives Henderson, K. Anderson, Frelich, Hauck, Kasper Senators Paulson, Clemens

- 1 A BILL for an Act to create and enact a new section to chapter 32-12.123-12 of the North
 2 Dakota Century Code, relating to an opt-out procedure for required vaccines.
 - BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:
 - **SECTION 1.** A new section to chapter <u>32-12.1</u>23-12 of the North Dakota Century Code is created and enacted as follows:

Required vaccine- Opt-out procedure- Exemptions.

- 1. Notwithstanding any other provision of law Unless otherwise provided by law, a state agency, political subdivision, or any other government entity, may not require an individual to take, or receive a vaccine or similar product used to prevent a disease, unless the there is a procedure made available for an opt-out for health, religious, or philosophical reasons.
- 2. This section is not applicable to the department Subsection 1 does not apply to the following state agencies, political subdivisions, or other government entities:
 - a. Department of corrections and rehabilitation or a correctional facility as defined under section 12-44.1-01;
 - b. The state hospital;

 - d. A school, day care center, child care facility, head start program, or nursery

1		school in compliance with section 23-07-17.1.
2	<u>3.</u>	For a school, day care center, child care facility, head start program, or nursery
3		school, the provisions of section 23-07-17.1 must be followed for vaccines and
4		vaccine opt-out provisions. This section is not applicable during a public health
5		disaster or emergency declared in accordance with chapter 37-17.1.
6		



Testimony Prepared for the Senate Human Services Committee HB 1454 – Related to Vaccinations Kim Jacobson, Agassiz Valley Human Service Zone Director March 11, 2025

Chair Lee and members of the Senate Human Service Committee, my name is Kim Jacobson, I serve as the Director for the Agassiz Valley Human Service Zone, which includes Traill and Steele Counties, and as President of the North Dakota Human Service Zone Director Association. I am here today to express my concerns about HB 1454.

Human service zones, and our host county employers, are considered political subdivisions. Additionally, as provided for in NDCC Chapter 50-01, human service zone directors serve as the legal custodian of youth in our public foster care system. When a child is in need of protection, Juvenile Courts order zone directors to provide legal care, custody, and control of that child. The scope of this legal custodianship or guardianship includes medical decision-making.

The North Dakota Human Service Zone Director Association is concerned that HB 1454 may limit our ability to properly serve youth that are in our legal care. Children in the public child welfare system can present with a wide array of medical needs. This includes "medically complex" children (or children who have two or more concurrent, chronic conditions that require ongoing medical attention and/or limit activities of daily living). HB 1454 proposed restrictions on political subdivisions could force us to choose between the medical interest of a child or violating state law.

Please amend HB 1454 to exempt human service zones. This can be accomplished by updating Subsection 2 of Section 1 (Page 1, Line 11) to read as follows: "This section is not applicable to the department of corrections and rehabilitation or to human service zones."

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

Good Morning Chairwoman Lee and Members of the Senate Human Service Committee.

For the record, I am Donna Henderson, District 15 Representative. I am here to introduce House Bill 1454. This bill seeks to clarify in century code, the opportunity for opting out of vaccinations. This bill first started out talking about vaccine manufacturers liability, and that's why it was heard in the House Industry Business and Labor committee. It was amended to the version you see here, but know we had rigorous and profitable discussions and I'm pleased with the version you have in front of you today. However, since it is very different from how it started out, please keep that in mind if you look back at some of the testimony on this bill. Much of it no longer applies after the amendment. The goal of this legislation is to prevent individuals from being forced into taking a vaccine, by clearly showing in century code that there is an avenue to opt out.

In our discussions in the House IBL committee, we had testimony from a representative of the Attorney General's office, and she testified that currently there is no requirement in Century code that would allow a

vaccine to be mandated, but at the same time, there was no prohibition either. She presented the information to that effect, and we looked at Title 23- Health and Safety in century code. So I printed that out for you. She stated that this part of code was amended post covid and she walked us thru the changes. Some of the powers of the health officer were changed, as well as the ability to have mask mandates were removed, and vaccine passports were prohibited. Also businesses are not allowed to deny a person entry as a consumer based on their vaccine status. That information is in the testimony on the laws site from Allison Hicks.

23-01-05. Health officer - 5 d. Issue a written order relating to a disease control measure necessary to prevent the spread of a communicable disease. A disease control measure may include a special immunization activity and decontamination measure.

The state health officer shall limit a written order issued under this section to the geographical area affected by the communicable disease. The state health officer may not issue a statewide order under this section unless the

governor has declared a statewide disaster or emergency under chapter 37-17.1

I will repeat that current century code does NOT give any entity the right to mandate vaccines, but there are no prohibitions on vaccine mandates either. That is why this bill is needed. We need to clarify and codify that vaccines cannot be required, or mandated, and an opt out must be available. Thus the language in lines 6-10 of the bill-

"Notwithstanding any other provision of law, a state agency, political subdivision, or any other government entity, may not require an individual to take or receive a vaccine or similar product used to prevent a disease, unless there is a procedure made available for an opt-out for health, religious, or philosophical reasons."

Line 11 was put in by request of the Attorney General's office asking for an exemption for the department of corrections and rehabilitation. That exemption is also in chapter 23-12-20 which deals with Covid-19 vaccinations. So this new chapter will align with that.

then lines 12-14 says, "For a school, day care center, child care facility, head start program, or nursery school, the provisions of section 23-07-17.1 must be followed for vaccines and vaccine opt-out provisions."

I have that section printed out for you as well and it directs you to the procedure in current law that needs to be followed for optouts for those facilities. Basically the parent can go to the HHS website, print off the form, fill it out and give it to the school or other facility.

At the last committee work session on this bill, the final version of the bill was approved by the Vice Chancellor of Academics of Student Affairs for the ND University systems. They showed us their vaccine exemption form that is readily available and is the same form for universities across the state. She said they allow the opt outs without even asking whether it is for religious, health, or philosophical reasons. Again they were supportive of the amendment and final version of this bill.

So this bill more clearly states the current opt out provisions. I think we all learned a lot from the covid mandates that can help us going forward. And that's what the goal if this bill is, to provide clear framework and direction for the future.

Thank you.

- county in the pilot project area. At the hearing, the department of health and human services shall accept written and oral testimony. The department of health and human services shall review the application and all testimony presented at the hearing and approve, disapprove, or modify and approve the application based on criteria established by the department of health and human services. The criteria must address the availability and use of health personnel, facilities, and services.
- 3. Notwithstanding any other provisions of law, upon approval of an application submitted under subsection 1, the department of health and human services, in consultation with the state health officer and any other public or private entity consulted by the department of health and human services, shall set the standards for the delivery of health care services by the pilot project. The standards may not adversely affect the state's participation in federal Medicare and Medicaid programs. No more than three separate projects may be operational at any time and no project may be operational for longer than five years.

23-01-05. Health officer - Qualifications, salary, term, duties.

- The governor shall appoint the state health officer who at the time of appointment must be a physician with substantive private or public administrative experience and public health experience. The state health officer is entitled to receive a salary commensurate with that individual's training and experience. The governor shall set the salary of the state health officer within the limits of legislative appropriations to the department.
- The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business.
- The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years.
- 4. If the office of the state health officer is filled temporarily, the governor shall appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer. Each member of the advisory committee is entitled to receive reimbursement of expenses in performing official duties in amounts provided by law for other state officers. The term of the advisory committee coincides with the term of the state health officer. A committee member serves at the pleasure of the governor.
- The duties of the state health officer are as follows:
 - a. Provide strategy and policy advice to improve health and wellness.
 - b. Serve in an advisory capacity for local public health and local health officers.
 - c. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions.
 - d. Issue a written order relating to a disease control measure necessary to prevent the spread of a communicable disease. A disease control measure may include a special immunization activity and decontamination measure.
 - (1) The state health officer shall limit a written order issued under this section to the geographical area affected by the communicable disease. The state health officer may not issue a statewide order under this section unless the governor has declared a statewide disaster or emergency under chapter 37-17.1 and the governor consents to the order. The statewide order is limited in duration to the duration of the declared disaster or emergency unless terminated earlier pursuant to chapter 37-17.1.
 - (2) A written order issued under this section has the same effect as a physician's standing medical order.
 - (3) The state health officer shall apply to the district court in a judicial district in which a communicable disease is present for an injunction canceling a public event or closing a place of business. On application of the state health officer showing the necessity of the cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.

- (4) Notwithstanding any other provision of law, an order issued pursuant to this subsection may not:
 - (a) Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - (b) Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or
 - (c) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
- (5) A person claiming to be aggrieved by a violation of paragraph 1 may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.
- e. Perform all duties required or provided by law.

23-01-05.1. Organ or tissue transplant assistance administration - Standing appropriation.

The department of health and human services shall select a private nonprofit patient-oriented organization incorporated in this state for the purpose of administering financial assistance to organ or tissue transplant patients who are residents of this state. The department of health and human services shall adopt rules governing administration of this section. The organization selected shall administer and provide grants from available funds to alleviate demonstrated financial needs of transplant patients for any costs associated with transplant operations, under guidelines based on current social service eligibility requirements. There is hereby created as a special fund in the state treasury an organ transplant support fund, the principal and income of which is hereby appropriated to the organization selected under this section. The organization administering the fund may solicit contributions from private or governmental sources and such contributions may be deposited in the fund.

23-01-05.2. Epinephrine prescription, distribution, possession, or use - Immunity from liability.

- 1. As used in this section:
 - a. "Epinephrine" means a single-use disposable device that automatically injects a premeasured dose of epinephrine.
 - b. "Health care professional" means a licensed or certified health care professional who is working within the scope of practice for that profession. The term may include a physician, physician assistant, advanced practice registered nurse, and pharmacist acting in the professional's scope of practice.
- A health care professional acting in good faith may directly or by standing order prescribe, distribute, or dispense epinephrine, if the health care professional provides training to:
 - An individual at risk of experiencing a severe allergic reaction; or
 - A family member, friend, or other person in a position to assist an individual at risk of experiencing a severe allergic reaction.
- A person acting in good faith may receive or possess epinephrine if that person is:
 - a. An individual at risk of experiencing a severe allergic reaction; or
 - b. A family member, friend, or other person in a position to assist an individual at risk of experiencing a severe allergic reaction.
- An individual acting in good faith may self-administer epinephrine or administer epinephrine to another individual who the administering individual suspects is at risk of experiencing a severe allergic reaction.
- A person may receive, possess, or administer epinephrine under subsection 3 or 4, regardless of whether the person is the individual for or the person to which the epinephrine is prescribed, distributed, or dispensed. A person in possession of

existence of such disease, are under the control and subject to the regulations of the local board of health.

23-07-14. Contagious or infectious diseases - Local board may destroy or disinfect infected clothing.

Any local board of health may cause to be destroyed any bed, bedding, clothing, carpets, or other articles which have been exposed to infection from a contagious or infectious disease and may allow reasonable compensation for the same. The board also may provide a proper place with all necessary apparatus and attendants for the disinfection of such articles and may cause all such articles to be conveyed to such place to be disinfected.

23-07-15. Removal of individual with reportable disease or condition - Removal of body of individual who died of reportable disease or condition - Prohibited - Declaration of emergency or disaster - Rulemaking authority.

- 1. Unless the person has a permit from the local board of health or department of health and human services, a person may not remove or cause to be removed from without this state into this state, from one building to another within this state, or from or to any railroad car or motor vehicle, an individual with a reportable disease or condition, or the body of an individual who died of a reportable disease or condition.
- 2. If the governor declares an emergency or a disaster based on an epidemic under chapter 37-17.1, the department of health and human services shall consider whether to adopt rules or emergency rules to notify emergency medical services personnel of the presence of a reportable disease or condition and any person taking possession of a dead body of a post-mortem communicable disease. Notwithstanding state laws to the contrary, rules adopted under this section may provide for the disclosure of personally identifiable information.

23-07-16. Child having contagious or infectious disease prohibited from attending school - Exception.

Except as provided by section 23-07-16.1, no principal, superintendent, or teacher of any school, and no parent or guardian of any minor child, may permit any child having any significant contagious or infectious disease, or any child residing in any house in which any such disease exists or has recently existed, to attend any public or private school until permitted to do so under the regulations of the local board of health.

23-07-16.1. School district to adopt policy relating to significant contagious diseases.

Each school district shall adopt a policy governing the disposition of children attending school within the school district, employees of the school district, or independent contractors under contract with the school district who are diagnosed as having a significant contagious disease. The state department of health shall, with advice from the superintendent of public instruction, adopt rules establishing guidelines for the policy. The guidelines may include methods and procedures relating to a determination of whether and under what conditions a child with a significant contagious disease may not continue attending school or whether and under what conditions an employee or an independent contractor with a significant contagious disease may not continue in a work assignment.

23-07-17. Vaccination or inoculation not required for admission to any school or for the exercise of a right.

Repealed by S.L. 1975, ch. 224, § 2.

23-07-17.1. Inoculation required before admission to school.

 A child may not be admitted to any public, private, or parochial school, or day care center, child care facility, head start program, or nursery school operating in this state or be supervised through home-based instruction unless the child's parent or guardian presents to the institution authorities a certification from a licensed physician or authorized representative of the department of health and human services that the child has received age-appropriate immunization against diphtheria, pertussis, tetanus, measles, rubella (German measles), mumps, hepatitis B, haemophilus influenza type b (Hib), varicella (chickenpox), poliomyelitis, pneumococcal disease, meningococcal disease, rotovirus, and hepatitis A. In the case of a child receiving home-based instruction, the child's parent or legal guardian shall file the certification with the public school district in which the child resides.

- 2. A child may enter an institution upon submitting written proof from a licensed physician or authorized representative of the department of health and human services stating that the child has started receiving the required immunization or has a written consent by the child's parent or guardian for a local health service or department to administer the needed immunization without charge or has complied with the requirements for certificate of exemption as provided for in subsection 3.
- 3. Any minor child, through the child's parent or guardian, may submit to the institution authorities either a certificate from a licensed physician stating that the physical condition of the child is such that immunization would endanger the life or health of the child or a certificate signed by the child's parent or guardian whose religious, philosophical, or moral beliefs are opposed to such immunization. The minor child is then exempt from the provisions of this section.
- 4. The enforcement of subsections 1, 2, and 3 is the responsibility of the designated institution authority.
- 5. The immunizations required, and the procedure for their administration, as prescribed by the department of health and human services, must conform to recognized standard medical practices in the state. The department of health and human services shall administer the provisions of this section and shall promulgate rules and regulations in the manner prescribed by chapter 28-32 for the purpose of administering this section.
- 6. When, in the opinion of the health officer, danger of an epidemic exists from any of the communicable diseases for which immunization is required under this section, the exemptions from immunization against such disease may not be recognized and children not immunized must be excluded from an institution listed in subsection 1 until, in the opinion of the health officer, the danger of the epidemic is over. The designated institution authority shall notify those parents or guardians taking legal exception to the immunization requirements that their children are excluded from school during an epidemic as determined by the department of health and human services.
- 7. When, in the opinion of the health officer, extenuating circumstances make it difficult or impossible to comply with immunization requirements, the health officer may authorize children who are not immunized to be admitted to an institution listed in subsection 1 until the health officer determines that the extenuating circumstances no longer exist. Extenuating circumstances include a shortage of vaccine and other temporary circumstances.

23-07-18. Physician to report death from contagious or infectious disease to local board of health.

Each practicing physician in this state shall report to the local board of health within the jurisdiction of which the death occurred, in writing, the death of any of the physician's patients who has died of any contagious or infectious disease. The report must be made within twenty-four hours after such death and must state the specific name and character of the disease.

23-07-19. Appropriation made on report showing action necessary to prevent spread of tuberculosis.

If any society or association organized and existing for the purpose of controlling the spread of tuberculosis in this state considers it necessary to secure the services of a visiting nurse or nurses, or to disinfect any building, room, residence, hotel, or other place infected with

tuberculosis, the society shall report such fact to the president of the county board of health and to the board of county commissioners. The report must recommend the course of action advisable to be adopted by the board of county commissioners in relation thereto and in accordance with the provisions of this chapter, and such board, at its next meeting, shall consider such report and recommendation and act on the same. The board may audit and allow bills for services rendered in carrying into effect any action taken by it under the provisions of this section.

23-07-20. Board of county commissioners may appropriate money to prevent the spread of tuberculosis.

The board of county commissioners of any county in this state may appropriate county money and levy taxes within the county levy limitations for the purpose of paying for the services of visiting nurses or other necessary medical attention or advice in preventing the spread of tuberculosis in the county, or for the purpose of disinfecting any building, room, residence, hotel, or other place in such county infected with tuberculosis, and may cooperate with neighboring counties to establish homes or hospitals for incurable tuberculosis patients.

23-07-20.1. Disclosure of records.

To protect the integrity of disease control records, to ensure their proper use, and to ensure efficient and proper administration of the department's disease control function, it is unlawful for any person to permit inspection of or to disclose information contained in disease control records, including results of laboratory tests, or to copy or issue a copy of all or part of any such record except as authorized by rules.

23-07-21. Penalties.

Except as otherwise provided in this section, a person is guilty of an infraction:

- Who violates or fails to obey any provision of this chapter, any lawful rule made by the department of health and human services, or any order issued by any state, district, county, or municipal health officer;
- 2. Who violates any quarantine law or regulation, or who leaves a quarantined area without being discharged; or
- Who, knowing that the person is infected with a sexually transmitted disease, willfully exposes another person to infection.

Any person required to make a report under section 23-07-02.1 who releases or makes public confidential information or otherwise breaches the confidentiality requirements of section 23-07-02.2 is guilty of a class C felony.

23-07-22. Suicide fatality review commission.

- The commissioner of the department of health and human services shall appoint the
 members of the suicide fatality review commission and select the presiding officer from
 the membership. Members serve at the pleasure of the commissioner. The
 commissioner may invite a temporary member based on the member's relevant
 expertise for a particular case. Commission membership may include representatives
 of the following:
 - A mental health practitioner from the public sector;
 - b. A mental health practitioner from the private sector;
 - c. A county coroner;
 - d. A public health epidemiologist;
 - e. The state forensic examiner;
 - f. The forensic pathology department at the university of North Dakota school of medicine and health sciences;
 - g. An emergency medical services provider;
 - h. A crisis line;
 - i. A public elementary or secondary school;
 - A veterans organization;

SENATE HUMAN SERVICES COMMITTEE HB 1454 - OPPOSITION

Brenda Sallman, RN

Traill District Health Unit

Greetings, Chair Lee and Members of the Senate Human Services Committee. My name is Brenda Stallman. I am the Executive Director of Traill District Health Unit, serving communities of Hillsboro, Mayville, Portland, Hatton, Clifford, Galesburg, Buxton, and Reynolds.

I am opposed to HB 1454. As a public health professional, we are called upon to serve and protect our population. To do that, my staff of four is needed and must be available to respond to disease outbreaks and cannot be responsible for spreading communicable diseases to each other and our citizens. We care for the elderly, helping them age successfully in their homes for as long as it is safe to do so. We cannot needlessly introduce this vulnerable population to a vaccine preventable disease that is dangerous and deadly.

We provide nursing services to our local schools' students and staff. It is unthinkable that we could introduce a circulating disease to this population, who in turn would take it home to their families. It is imperative that we are vaccinated and that I know of my staffs' vaccination status to protect them and those we serve.

I have not heard of any county sheriff's agency that is overstaffed. Traill County's is no different. They must respond daily to situations that involve dangerous offenders who spit, bite, defecate, and urinate on or around the officers. Traill County does not have its own

jail, so our law enforcement personnel spend many hours in close contact with inmates transporting them to facilities outside of our county. These offenders, whom we do not know of their current health status that can quite easily include transmittable diseases, are not interested in the health and well-being of our officers. But we are, and we must be able to protect them with the vaccines available for them to stay healthy and continue protecting our public.

Traill County is just like every other ND County. We have staffing that is very lean in numbers, with no exceptions. We care about the people we employ and the people we serve. Our families, our neighbors, our businesses, our voters, our clergy; all the people that keep our communities going. I am asking you not to put our staff and the people of ND in harms way. Thank you for your consideration of opposing HB 1454.

2025 SENATE STANDING COMMITTEE MINUTES

Human Services Committee

Fort Lincoln Room, State Capitol

HB 1454 3/24/2025

Relating to an opt-out procedure for required vaccines.

10:40 a.m. Chairman Lee opened the hearing.

Members Present: Chairman Lee, Vice-Chairman Weston, Senator Van Oosting, Senator Clemens, Senator Hogan, Senator Roers.

Discussion Topics:

- Exempted Groups
- Chiefs of Police
- Potential Interim Study
- Impacted Century Code Section

10:40 a.m. Chairman Lee opened discussion on Exempted Groups.

10:44 a.m. Allyson Hicks, Assistant Attorney General of General Counsel Division, with Department of Health and Human Services, answered committee questions.

11:00 a.m. Senator Roers moved amendment LC#25.0975.02001.

11:00 a.m. Senator Hogan seconded the motion.

Senators	Vote
Senator Judy Lee	Υ
Senator Kent Weston	Υ
Senator David A. Clemens	N
Senator Kathy Hogan	Υ
Senator Kristin Roers	Υ
Senator Desiree Van Oosting	Υ

Motion passed 5-1-0.

11:06 a.m. Senator Hogan moved Do Not Pass as Amended.

11:07 a.m. Senator Lee seconded the motion.

Senators	Vote
Senator Judy Lee	Υ
Senator Kent Weston	N
Senator David A. Clemens	N
Senator Kathy Hogan	Υ
Senator Kristin Roers	N

Senate Human Services Committee HB 1454 03/24/2025 Page 2

Senator Desiree Van Oosting	N
condict Books van Cooking	

Motion failed 2-4-0.

11:08 a.m. Senator Van Oosting moved Do Pass as Amended.

11:08 a.m. Senator Clemens seconded.

Senators	Vote
Senator Judy Lee	Ν
Senator Kent Weston	Υ
Senator David A. Clemens	Υ
Senator Kathy Hogan	Ν
Senator Kristin Roers	Υ
Senator Desiree Van Oosting	Υ

Motion passed 4-2-0.

Senator Van Oosting will carry the bill.

11:12 a.m. Chairman Lee closed the hearing.

Bill was reconsidered on 3/26/2025

Andrew Ficek, Committee Clerk

Adopted by the Senate Human Services 3/24/5 Committee

March 24, 2025

March 24, 2025

Sixty-ninth Legislative Assembly of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1454

Introduced by

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Representatives Henderson, K. Anderson, Frelich, Hauck, Kasper Senators Paulson, Clemens

- A BILL for an Act to create and enact a new section to chapter 32-12.123-12 of the North 1
- 2 Dakota Century Code, relating to an opt-out procedure for required vaccines.

3 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 32-12.1 of the North Dakota Century Code is created 4 5 and enacted as follows: 6

SECTION 1. A new section to chapter 23-12 of the North Dakota Century Code is created and enacted as follows:

Required vaccine - Opt-out procedure - Exemptions.

- Notwithstanding any other provision of law, except as provided in subsections 2 and 3, 1. a state agency, political subdivision, or any other government entity, may not require an individual to take or receive a vaccine or similar product used to prevent a disease. unless there is a procedure made available for an opt-out for health, religious, or philosophical reasons.
- 2. This section is not applicable to the department of corrections and rehabilitation The following entities are exempt from subsection 1:
- 16 a. The department of corrections and rehabilitation;
- 17 A correctional facility as defined under section 12-44.1-01;
- 18 c. A law enforcement agency;
- 19 d. A local public health unit;
- 20 e. A human service zone;

Sixty-ninth Legislative Assembly

1		f. The state hospital:
2	S	g. A developmental disability residential facility or other health care provider.
3		including a long-term care provider, basic care provider, and assisted living
4		provider; and
5		h. A school, day care center, child care facility, head start program, or nursery
6		school in compliance with section 23-07-17.1.
7	<u>3.</u>	For a school, day care center, child care facility, head start program, or nursery school,
8		the provisions of section 23-07-17.1 must be followed for vaccines and vaccine opt-out
9		provisions This section does not apply during a public health disaster or emergency
10		declared under chapter 37-17.1.

Module ID: s_stcomrep_46_021 Carrier: Van Oosting Insert LC: 25.0975.02001 Title: 03000

REPORT OF STANDING COMMITTEE ENGROSSED HB 1454

Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS** (25.0975.02001) and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). Engrossed HB 1454 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

2025 SENATE STANDING COMMITTEE MINUTES

Human Services Committee

Fort Lincoln Room, State Capitol

HB 1454 3/26/2025

A BILL for an Act to create and enact a new section to chapter 23-12 of the North Dakota Century Code, relating to an opt-out procedure for required vaccines.

9:03 a.m. Chairman Lee opened the hearing.

Members Present: Chairman Lee, Vice-Chairman Weston, Senator Van Oosting, Senator Clemens, Senator Hogan, Senator Roers.

Discussion Topics:

Exemptions

9:03 a.m. Senator Weston moved to reconsider.

9:03 a.m. Senator Van Oosting seconded the motion.

Voice Vote - Motion passed.

9:05 a.m. Senator Roers moved Amendment LC#25.0975.02003.

9:05 a.m. Weston seconded the motion.

Senators	Vote
Senator Judy Lee	Υ
Senator Kent Weston	Υ
Senator David A. Clemens	Υ
Senator Kathy Hogan	Υ
Senator Kristin Roers	Υ
Senator Desiree Van Oosting	Υ

Motion passed 6-0-0

9:07 a.m. Senator Clemens moved Do Pass as Amended.

9:08 a.m. Senator Van Oosting seconded the motion.

Senators	Vote
Senator Judy Lee	N
Senator Kent Weston	Υ
Senator David A. Clemens	Υ
Senator Kathy Hogan	N
Senator Kristin Roers	Υ
Senator Desiree Van Oosting	Υ

Senate Human Services Committee HB 1454 03/26/2025 Page 2

Senator Van Oosting will carry the bill.

9:09 a.m. Chairman Lee closed the hearing.

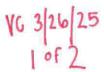
Andrew Ficek, Committee Clerk

25.0975.02003 Title.04000

Adopted by the Human Services Committee March 26, 2025

Sixty-ninth Legislative Assembly of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT



ENGROSSED HOUSE BILL NO. 1454

Introduced by

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Representatives Henderson, K. Anderson, Frelich, Hauck, Kasper

Senators Paulson, Clemens

In place of the amendments (25.0975.02001) proposed in the journal by the Senate, Engrossed House Bill No. 1454 is amended by amendment (25.0975.02003) as follows:

- 1 A BILL for an Act to create and enact a new section to chapter 32 12.123-12 of the North
- 2 Dakota Century Code, relating to an opt-out procedure for required vaccines.

3 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

4 SECTION 1. A new section to chapter 32-12.1 of the North Dakota Century Code is created 5 and enacted as follows: 6 SECTION 1. A new section to chapter 23-12 of the North Dakota Century Code is created 7 and enacted as follows: 8 Required vaccine - Opt-out procedure - Exemptions. 9 Notwithstanding any other provision of law, except as provided in subsections 2 and 3Unless otherwise provided by law, a state agency, political subdivision, or any other 10 11 government entity, may not require an individual to take or receive a vaccine or similar 12 product used to prevent a disease, unless there is a procedure made available for an 13 opt-out for health, religious, or philosophical reasons. 14 This section is not applicable to the department of corrections and rehabilitation The 2. 15 following entities are exempt from subsection 1: 16 The department of corrections and rehabilitation: 17 A correctional facility as defined under section 12-44.1-01: 18 c. A law enforcement agency:

d. A local public health unit:

A human service zone:

e.d.

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1		f.e.	The state hospital;
2		g. f.	A developmental disability residential facility or other health care provider,
3			including a long-term care provider, basic care provider, and assisted living
4			provider; and
5	-	h. g.	A school, day care center, child care facility, head start program, or nursery
6			school in compliance with section 23-07-17.1.
7	<u>3.</u>	For	a school, day care center, child care facility, head start program, or nursery school,
8		the	provisions of section 23-07-17.1 must be followed for vaccines and vaccine opt-out
9		prov	visionsThis section does not apply during a public health disaster or emergency
10		dec	lared under chapter 37-17.1.

Module ID: s_stcomrep_48_012 Carrier: Van Oosting Insert LC: 25.0975.02003 Title: 04000

REPORT OF STANDING COMMITTEE ENGROSSED HB 1454

Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS** (25.0975.02003) and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). Engrossed HB 1454 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

2025 CONFERENCE COMMITTEE
HB 1454

2025 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee

Room JW327C, State Capitol

HB 1454 4/23/2025 Conference Committee

A BILL for an Act to create and enact a new section to chapter 32-12.1 of the North Dakota Century Code, relating to the medical liability of a government entity.

11:01 a.m. Chairman D. Ruby opened the meeting.

Members Present: Chairman D. Ruby, Representatives Koppelman, Ostlie, Senators Weston, Hogan, Van Oosting

Discussion Topics:

- DOCR exemption
- Unintended consequences
- Century code research
- 11:02 a.m. Chairman D. Ruby initiated the discussion.
- 11:02 a.m. Senator Weston initiated discussion on the Senates position.
- 11:10 a.m. Dr. Stephanie Gravning, Health Authority, Department of Corrections & Rehabilitations (DOCR) available to answer questions.
- 11:29 a.m. Representative Koppelman moved in place of the Senate amendment LC #25.0975.02003 adopted by the Senate, the bill is amended by the conference committee amendment by adding a new chapter to title 23 and removing the Department of Corrections and Rehabilitation, LC #25.0975.02005.
- 11:29 a.m. Senator Van Oosting seconded the motion.

Motion passed 4-2-0

- 11:30 a.m. Representative Ruby will carry the bill.
- 11:30 a.m. Senator Van Oosting will carry the bill.
- 11:30 a.m. Chairman D. Ruby adjourned the meeting.

Diane Lillis, Committee Clerk

25.0975.02005 Title.06000 Adopted by the Conference Committee

April 23, 2025

Sixty-ninth Legislative Assembly of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT



ENGROSSED HOUSE BILL NO. 1454

Introduced by

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Representatives Henderson, K. Anderson, Frelich, Hauck, Kasper Senators Paulson, Clemens

In place of amendment (25.0975.02003) adopted by the Senate, Engrossed House Bill No. 1454 is amended by amendment (25.0975.2005) as follows:

- 1 A BILL for an Act to create and enact a new section to chapter 32-12.123-12 of the North
- 2 Dakota Century Code, relating to an opt-out procedure for required vaccines.

3 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

4 SECTION 1. A new section to chapter 32-12.1 of the North Dakota Century Code is created
5 and enacted as follows:

SECTION 1. A new section to chapter 23-12 of the North Dakota Century Code is created and enacted as follows:

Required vaccine - Opt-out procedure.

- 1. Notwithstanding any other provision of law, a state agency, political subdivision, or any other government entity, may not require an individual to take or receive a vaccine or similar product used to prevent a disease, unless there is a procedure made available for an opt-out for health, religious, or philosophical reasons.
- 2. This section is not applicable to the department of corrections and rehabilitation.
- For a school, day care center, child care facility, head start program, or nursery school,
 the provisions of section 23-07-17.1 must be followed for vaccines and vaccine opt-out
 provisions.

HB 1454 042325 1139 AM Roll Call Vote

Final Recommendation

HB 1454

Date Submitted: April 23, 2025, 11:39 a.m.

Recommendation: In Place Of Amendment LC #: 25.0975.02005 Engrossed LC #: 25.0975.05000

Description:

Motioned By: Koppelman, Ben
Seconded By: Van Oosting, Desiree

House Carrier: Ruby, Dan

Senate Carrier: Van Oosting, Desiree

Emergency Clause: None Vote Results: 4 - 2 - 0

Rep. Ruby, Dan	Yea
Rep. Ostlie, Mitch	Nay
Rep. Koppelman, Ben	Yea
Sen. Weston, Kent	Yea
Sen. Hogan, Kathy	Nay
Sen. Van Oosting, Desiree	Yea

Module ID: h_cfcomrep_68_001

Insert LC: 25.0975.02005 Title: 06000 House Carrier: D. Ruby Senate Carrier: Van Oosting

REPORT OF CONFERENCE COMMITTEE ENGROSSED HB 1454

Your conference committee (Sens. Weston, Hogan, Van Oosting and Reps. D. Ruby, Ostlie, Koppelman) recommends that in place of amendment <u>25.0975.02003</u> adopted by the Senate, Engrossed HB 1454 is amended by amendment <u>25.0975.02005</u>.

Engrossed HB 1454 was placed on the Seventh order of business on the calendar.