



2023 Senate Bill no. 2260

Senate Judiciary Committee

Senator Diane Larson, Chairman

January 24, 2023

Chairman Larson and members of the Senate Judiciary Committee, I am Chris Meeker, a board-certified emergency physician and I serve as chief medical officer at Sanford Health Bismarck. I testify in opposition to Senate Bill 2260. We ask that you give the bill a **Do Not Pass** recommendation.

It is a long-established principle that, before treating a patient, a health care provider must obtain the consent of that patient. The idea that parents should have the right and responsibility to make health care decisions for their children seems eminently reasonable. Before treating a minor patient, consent must be obtained from the patient's parent or legal guardian. This seems straightforward but some provisions of the bill would change longstanding North Dakota law regarding minors' ability to consent to their own treatment in certain circumstances and other provisions of the bill are simply unworkable.

Section one of the bill would require a substantial and concerning change regarding reporting of child abuse and neglect. As you probably know, health care providers are mandated by state law to report suspected child abuse and neglect. The bill provides that a parent has the right to be notified promptly if the government or other "institution" suspects abuse, neglect, or a criminal offense has been committed against the child. It is unclear who will be obligated to provide that notice to a parent. Will the person making the report also be required to notify the parents? What if they cannot be found? What if a parent is the alleged abuser?

The bill has conflicting provisions regarding parental consent to health care. Section one requires written consent of a parent to health care for a child. Section three provides only for "consent" and does not define whether that is written or verbal. The reference to consent via telemedicine implies that verbal only consent is sufficient. But the

requirements of these two sections are at odds with each other. It will be difficult for health care providers to know whether they may rely on verbal only consent.

If the intent of the bill is to require prior, written consent of a parent before any physical or mental health care can be provided to a child, such a requirement is unworkable. Prior, written consent for everything, even routine services such as when a health care provider takes a child's temperature, looks in her ears, and listens to her heart as part of a well child visit, or when seeing a child for a minor illness, is simply not practical and adds another paperwork burden to our health care system. Do we really want every single health care service, treatment, and prescription for a minor to require a parent's written consent?

The bill's provisions would also conflict with longstanding laws governing when minors may consent to their own health care. The legislature has determined that, in certain circumstances, it may be more important for a young person to have access to confidential medical services than it is to require that parents be informed of the situation. For example, state law gives minors the right to consent to treatment in specific situations:

1. N.D.C.C. § 14-10-17 provides that any person 14 years or older may receive examination, care, or treatment for sexually transmitted disease, alcoholism, or drug abuse without permission, authority, or consent of a parent or guardian.
2. N.D.C.C. § 14-10-17.1 provides that a minor may contract for emergency examination, care, or treatment in a life-threatening situation without the consent of the minor's parent or guardian. Consent to emergency examination, care, or treatment is implied if reasonable steps to contact the minor's parent or guardian are unsuccessful.
3. N.D.C.C. § 14-10-18.1 provides that an individual who is at least 16 years old may donate blood on a voluntary and noncompensatory basis without consent of a parent or guardian.
4. N.D.C.C. § 14-10-19 provides limited prenatal care, pregnancy testing, and pregnancy pain management for a minor without a parent's consent. A health care provider may provide prenatal care beyond the first trimester of pregnancy or in addition to the single prenatal care visit in the second or third trimester if, after a good-faith effort, the health care provider is unable to contact the minor's parent or guardian. The law requires that if a minor requests confidential services, the health

care provider shall encourage the minor to involve her parents or guardian. The health care provider may inform the parent or guardian of any pregnancy care services in certain circumstances.

5. N.D.C.C. § 14-10-20, which just passed last session, allows an unaccompanied homeless minor to consent to health care (other than an abortion).

I can give you numerous examples of situations when parental consent may serve as a barrier to a minor receiving medical care in a timely manner, such as:

- Prenatal care: minors seek pregnancy prevention or disclose sexual abuse without parental consent. If we were unable to even see minors without a parent's consent, they would have no way to disclose abuse going on in the home.
- Substance use disorder: We have many minors disclose substance use only after we inform them that it's confidential. Once they disclose, our providers try to convince them that their parent is an ally. But confidentiality is essential to building trust.
- Sexually transmitted disease: As with pregnancy and substance use disorder, confidentiality is essential to help ensure STDs do not go unchecked, potentially leading to infertility, disease, and increased risk for organ failure.

If this bill passes, it will override these longstanding laws that allow minors to consent to their own health care in these limited circumstances. This bill is also simply unworkable in the burden it would place on health care providers to secure prior written consent to all health care services, even routine examinations or prescriptions. And while health care providers agree that parental involvement is desirable and ideally parents and teenagers would work together to make well thought out health care decisions, the reality is that if we take away access to confidential health care in certain situations teenagers simply will stop seeking the care they need.

For these reasons, we ask that you give the bill a **Do Not Pass** recommendation. I would be happy to respond to any questions you may have. Thank you.

Respectfully Submitted,

Chris Meeker, MD
North Dakota Hospital Association