

**FIRST ENGROSSMENT
with Conference Committee Amendments
ENGROSSED SENATE BILL NO. 2298**

Introduced by

Senators Kilzer, Carlisle

Representatives Hawken, Karls

1 A BILL for an Act to amend and reenact section 65-05-08.3 of the North Dakota Century Code,
2 relating to workers' compensation consideration of treating doctor's opinions.

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

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

6 **65-05-08.3. Treating doctor's opinion.**

- 7 1. ~~If the organization does not give an injured employee's treating~~A presumption may not
8 be established in favor of any doctor's opinion controlling weight, the organization shall
9 establish that the treating doctor's opinion is not well-supported by medically
10 acceptable clinical and laboratory diagnostic techniques or is inconsistent with the
11 other substantial evidence in the injured employee's record based on one or more of.
12 The organization shall resolve conflicting medical opinions and in doing so the
13 organization shall consider the following factors:
- 14 a. The length of the treatment relationship and the frequency of examinations;
 - 15 b. The nature and extent of the treatment relationship;
 - 16 c. The amount of relevant evidence in support of the opinion;
 - 17 d. How consistent the opinion is with the record as a whole;
 - 18 e. Appearance of bias;
 - 19 f. Whether the doctor specializes in the medical issues related to the opinion; and
 - 20 g. Other relevant factors.
- 21 2. This section does not apply to managed care programs under section 65-02-20. For
22 purposes of this section, the organization shall determine whether a doctor is an
23 injured employee's treating doctor.