

SENATE BILL NO. 2291

Introduced by

Senators J. Lee, D. Larson, Nelson

Representatives McWilliams, Skroch, Schneider

1 A BILL ~~for an Act to amend and reenact section 25-03.1-16 and subsection 4 of section~~
2 ~~30.1-28-12 of the North Dakota Century Code, relating to medication pending treatment order,~~
3 ~~and powers and duties of a guardian regarding medical decisions~~for an Act to create and enact
4 a new section to chapter 25-03.1, a new subsection to section 30.1-28-04, and a new
5 subsection to section 30.1-28-12 of the North Dakota Century Code, relating to powers, duties,
6 and authority of a guardian regarding medical decisions; and to declare an emergency.

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

8 ~~— **SECTION 1. AMENDMENT.** Section 25-03.1-16 of the North Dakota Century Code is~~
9 ~~amended and reenacted as follows:~~

10 ~~— **25-03.1-16. Medication pending treatment order.**~~

11 ~~— 1. ~~A~~Except as provided under this section, a patient who has requested release or an~~
12 ~~individual who is the subject of a petition for treatment has the right to refuse~~
13 ~~medication and other forms of treatment before the preliminary or treatment hearing.~~
14 ~~However, a~~

15 ~~— 2. ~~A~~ physician, a physician assistant, or an advanced practice registered nurse may~~
16 ~~prescribe medication or a less restrictive alternative if it is necessary to prevent bodily~~
17 ~~harm to the respondent or others or, to prevent imminent deterioration of the~~
18 ~~respondent's physical or mental condition, or pursuant to section 30.1-28-12. The~~
19 ~~patient has the right to be free of the effects of medication at the preliminary or~~
20 ~~treatment hearing by discontinuance of medication no later than twenty-four hours~~
21 ~~before the hearing unless, in the opinion of the prescriber, the need for the medication~~
22 ~~still exists or discontinuation would hamper the respondent's preparation for and~~
23 ~~participation in the proceedings.~~

1 ~~SECTION 2. AMENDMENT.~~ Subsection 4 of section 30.1-28-12 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 ~~4. Notwithstanding a guardian has general or limited authority, as determined by the~~
4 ~~court, to make medical decisions on behalf of the ward, no including forced medication~~
5 ~~pursuant to a physician's recommendation. However, a guardian may not consent to~~
6 ~~psychosurgery, abortion, sterilization, or experimental treatment of any kind unless the~~
7 ~~procedure is first approved by order of the court.~~

8 **SECTION 1.** A new section to chapter 25-03.1 of the North Dakota Century Code is created
9 and enacted as follows:

10 **Guardian consent to involuntary treatment with prescribed medication.**

11 Notwithstanding sections 25-03.1-16, 25-03.1-18.1, and 25-03.1-24, if a patient refuses
12 treatment with prescribed medication, a treating physician, physician assistant, psychiatrist, or
13 advanced practice registered nurse may treat the patient with prescribed medication upon
14 consent of the patient's guardian pursuant to section 3 of this Act.

15 1. The guardian's consent for involuntary treatment with prescribed medication may not
16 be in effect for more than ninety days without receiving another recommendation and
17 determination pursuant to section 3 of this Act.

18 2. The patient has the right to be free of the effects of medication at the preliminary or
19 treatment hearing by discontinuance of medication no later than twenty-four hours
20 before the hearing unless, in the opinion of the prescriber, the need for the medication
21 still exists or discontinuation would hamper the patient's preparation for and
22 participation in the proceedings.

23 3. The guardian may not consent to involuntary treatment with prescribed medication
24 solely for the convenience of facility staff or for the purpose of punishment.

25 **SECTION 2.** A new subsection to section 30.1-28-04 of the North Dakota Century Code is
26 created and enacted as follows:

27 A grant of general authority to make medical decisions includes the authority to
28 consent to involuntary treatment with prescribed medications. Except upon specific
29 findings of the court, a grant of limited authority does not include authority to consent
30 to involuntary treatment with prescribed medications.

1 **SECTION 3.** A new subsection to section 30.1-28-12 of the North Dakota Century Code is
2 created and enacted as follows:

3 A guardian with authority to consent to involuntary treatment with prescribed
4 medications may not provide consent without receiving a recommendation and
5 determination from the ward's treating physician, physician assistant, psychiatrist, or
6 advanced practice registered nurse that:

7 a. The proposed prescribed medication is clinically appropriate and necessary to
8 effectively treat the ward and that the ward requires treatment;

9 b. The ward was offered that treatment and refused it or that the ward lacks the
10 capacity to make or communicate a responsible decision about that treatment;

11 c. Prescribed medication is the least restrictive form of intervention necessary to
12 meet the treatment needs of the ward; and

13 d. The benefits of the treatment outweigh the known risks to the ward.

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