

Administrative Rules Committee
December 07, 2015
Autism Spectrum Disorder (ASD) Database
North Dakota Department of Health

Good morning, Mr. Chairman and members of the Administrative Rules Committee. My name is Kodi Pinks, and I am the Autism Database Administrator in the Division of Children's Special Health Services in the North Dakota Department of Health. The following is information on new regulations the Department of Health has recently proposed involving the ASD database.

1. These rules resulted from statutory changes made by the Legislative Assembly. During the 2013 legislative session, House Bill 1038 was passed. The Department was given the responsibility of establishing and administering an ASD database and was required to convene an ASD expert panel and develop administrative rules. The proposal and passage of Senate Bill 2176 during the 2015 legislative session addressed concerns raised by the ASD expert panel.
2. These rules are not related to any federal statute or regulation.
3. A Notice of Intent to Adopt Administrative Rules was sent to Legislative Council on August 12, 2015. Public notices on the administrative rules hearing were printed in the state's major newspapers at the beginning of June 2015. A public hearing was held on June 29, 2015, and a ten-day written comment period after the hearing date was established.
4. Two people outside the Department attended the hearing but made no comments. One written comment was received in support of these rules by the North Dakota Autism Spectrum Disorder Advocacy Coalition.
5. The cost of the public notice and holding of the hearing for the proposed rules was \$1,772.30.
6. These proposed rules resulted from House Bill 1038, which was passed during the 2013 legislative session. The Department was given the responsibility of establishing and administering an ASD database that includes a record of all reported cases of ASD in the state in order to complete epidemiologic surveys, research and analysis, and provide services to individuals with ASD. It also required that the Department develop administrative rules for the ASD database. The Department convened an ASD expert panel in October 2014 to establish who is qualified to report a case of ASD into the database and to address other reporting requirements. The ASD expert panel raised concerns that language used in NDCC 23-01-41 was potentially too restrictive and might hinder reporting into the ASD database; therefore, they made recommendations that those issues be addressed during the 2015 legislative session before the ASD database would be implemented. Senate Bill 2176 helped ensure the success of the ASD database by addressing criteria for qualified reporters and changes regarding the physical evaluation.

7. No regulatory analysis was required as the proposed rules are not expected to have an impact on the regulated community in excess of \$50,000. Neither the Governor nor any member of the Legislative Assembly requested a regulatory analysis.
8. Attached are the Small Entity Regulatory Analysis and the Small Entity Economic Impact statement.
9. These rules will not have a fiscal effect on state revenues and expenditures, including any effect on funds controlled by the Department.
10. A constitutional takings assessment was not required because the rules do not limit the uses of real property.
11. These rules were not adopted as emergency rules under NDCC Section 28-32-03.

I am happy to answer any questions you may have.

North Dakota Administrative Code 33-03-34
Autism Spectrum Disorder (ASD) Database

Small Entity Regulatory Analysis:

1. Was establishment of less stringent compliance or reporting requirements for small entities considered? *Less stringent reporting requirements were not considered. The proposed rules address uniform autism spectrum disorder database reporting requirements but do allow for a reporter or the reporter's designee to report into the autism spectrum disorder database.*
2. Was establishment of less stringent schedules or deadlines for compliance or reporting requirements considered for small entities? *Less stringent schedules or deadlines are not applicable with these proposed rules. Timeliness requirements for reporting into the autism spectrum disorder database were established based on recommendations of an expert panel convened by the North Dakota Department of Health.*
3. Was consolidation or simplification of compliance or reporting requirements for small entities considered? *Consolidation or simplification of compliance of reporting requirements was not applicable with these proposed rules.*
4. Were performance standards established for small entities for replacement design or operational standards required in the proposed rule? *No changes in performance or operational standards were part of these proposed rules.*
5. Was exemption of small entities from all or any part of the requirements in the proposed rules considered? *No exemption of small entities from any part of these rules was considered.*

Small Entity Economic Impact Statement:

1. Which small entities are subject to the proposed rule? *Any physician, psychologist or other licensed or certified health care professional who is qualified by training and by licensure or certification to make the diagnosis of autism spectrum disorder are subject to these proposed rules.*
2. What are the administrative and other costs required for compliance with the proposed rule? *There is no expected increase in the administrative costs required to comply with these proposed rules, although staff time will be required for reporting into the autism spectrum disorder database.*
3. What is the probable cost and benefit to private persons and consumers who are affected by the proposed rule? *There are no probable costs to private persons and consumers. The probable benefit to private persons and consumers is to improve current knowledge and understanding of autism spectrum disorder in North Dakota.*
4. What is the probable effect of the proposed rule on state revenues? *There would be no effect on state revenues.*

5. Are there any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule? *Less intrusive or less costly alternative methods were not found.*