

2013 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2065

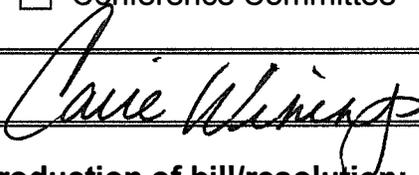
2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2065
01/10/2013
Job # 17056

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact subdivision a of subsection 5 of section 23-06.5-19 of the North Dakota Century Code, relating to the health care record registry of health care directives; and to declare an emergency.

MINUTES:

Chairman Dever: Opened the Hearing on SB 2065.

Sheldon Wolf, ND Health Information Technology Director: See Attached Testimony #1

(5.22) Senator Nelson: My advanced directives are in the hands of Sanford Medical Systems. Should I have put it somewhere else? Every time you go for a physical they say do we have a copy of it. They seem to be buying up most of the places around the state. Am I ok? .

Sheldon Wolf: What we have talked about is really seeing down the road and if we can work with the providers that have a lot of those already to bulk load them back into registry. The problem is that we need to make sure we have the most current one. You may have one with them but you may have another one that you changed and did different things with it. We are thinking we will open up that registry and have everyone put it in there. At that point they would be able to access it from multiple locations. If it is in the registry, it will not matter where they are within the state as long as they are part of the health information network. In time that will be connected around the United States.

Senator Nelson: Does your group also have a model copy? There used to be things you could use as a template for writing one.

Sheldon Wolf: There are laws in the books in regards to that. We are just going to be the repository piece of it. Once somebody has it done they will have a place where they can send it in. We don't deal with the legal aspects of it. We are just the holder for availability.

Vice Chairman Berry: Question on the healthcare directives. What is included?

Sheldon Wolf: It really comes down to whatever directive that you have out there. We are not the one to decide what is in that directive. We are the repository for it. So if you follow the state format for that and put it in there. When you ask someone right now for their advanced directives; they bring it to you. We will be the repository at that point and the state will be able to access. We do not control what the forms are. We are only holding what is out there.

Vice Chairman Berry: You are saying each facility will have their own as to what the advanced directive is and you are saying it may vary? Is this specifically broad to cover anything directed in the future?

Sheldon Wolf: We in this part with the bill when it rolls over it is just the repository for it. It isn't the forms etc. There are rules around that in the state about what an advanced directive is.

Chairman Dever: Is the word provider defined in that area of the code?

Sheldon Wolf: No it is not. It is a generic term that we use in regard to it. When we look at it we have access rights that get into the system. To see those things we have in our stuff we have who has access rights to those different things. We do not have provider identified in there at this point.

Chairman Dever: So in your policy it would be restricted to those that need to know.

Sheldon Wolf: Yes. We do have in the North Dakota health information network have different access levels. So those levels would give it to you. We have laid out a structure within the ND

health information network of the individual people that would be able to see what is in the whole virtual health records.

Senator Cook: Are we solving a problem with this? Has there been a case where someone received treatment that was contrary to their advanced directives?

Sheldon Wolf: I don't think it is an issue. It is really being able to have that information in one spot so that it can be accessed no matter where it is. So they don't have to take it to every different facility. This was done two sessions ago where there was a need for it. I get calls all the time from lawyers and they want to get these into one spot so people have access to them. We are trying to get it in one spot so that everyone can see it in order to carry out your wishes.

Senator Cook: Are there not people that maybe that had past directives that feel it is their responsibility to have them when they are needed and don't want it to be so publically available? I have advanced directives and I am just trying to grasp the amount of people that have access to it?

Sheldon Wolf: I hear where you are going with that. That is why it is going to be up to the individual to be able to put their own advanced directive into the system and not offload them back from the facilities.

Chairman Dever: Continue

Senator Cook: You don't have any authority to put this into the depository without asking me first would you?

Sheldon Wolf: We had talked about that and for the particular reason you are saying and also because we don't know that we have the most current; we are going to have the individual put them up there themselves. We have had the exact same discussions in regard to it.

(13:34) Chairman Dever: Anyone else in support ? Anyone in opposition?

Christopher Dodson, North Dakota Catholic Conference: Our opposition is not necessarily based on the concept but we have a different reading of the existing statute that I help write and I think some things need to be clarified if we are going to amend this law. The way we have understood the existing statute which you don't have in front of you is that the information that is provided in those definitions. There is a definition for "health care directive" and then there is a definition for "registration form". Which is the form that says prescribed by the information technology department to facilitate the filing of a health care record. It was our intention when we created this mostly with Mr. Levi who was then with the medical association. It was a black box. ITD would not have access to the health care directive. What they have is the data which other people use to get into that black box and access the health care directive. If I tell my hospital I have deposited this, which is voluntary, into this system and give them the pin #, the idea of the release which we understood was the release to the hospital to type in last name and pin # and then comes out the directive that I deposited electronically. When we talked about in the bill, "to a provider", we are talking about releasing registration forms, file numbers, and other information maintained. It was our understanding that emergency department and health care providers would not need to get from the ITD the information like my pin #. What they need is the health care directive. We thought that was already provided in the statute. ITD is not releasing it, I am. That is why we wonder why it needs to be changed now and does it allow ITD to release something that wasn't intended or doesn't need to be there. What I would suggest is that maybe we can work and clean this up. I also disagree that the statute does define who a provider is; it is further up in the chapter. It was meant to be part of the whole chapter of the health care directive law. It is maybe just another understanding when this was written and the ITD people understanding what they do. If it is

the committee's intent to make sure that health care providers have access to health care directives, we are not opposed to that. That was the plan all the time. We did not think it was necessary was give a health care provider authority to go to information technology department and get everything else that might be in that electronic database that is not a health care directive. Since I did work on the statute for all these years, I can answer that the registry is optional. It has been a concern with all these different health care providers who want it someplace you can access them. The patient self -determination act requires that when you enter into your hospital or long term care facility you have to be asked if you have a directive. People don't always bring them and when they are asked that sometimes they are confused and write another one. It would be easier to say I have it deposited electronically. I am willing to work with the sponsors of the bill to work out the intent of the committee.

(18.46) Chairman Dever: Further questions?

Vice Chairman Berry: In regards to accessing it in emergency department, if you are brought in unresponsive and they need to know directives, Is there anything in the bill that is currently in law that states how they handle that situation?

Christopher Dodson: Generally, emergency care is exempt from the advanced directives law because our emergency care system works and it is a system that you don't mess with and you don't have time to look for one. That should be worked out with your healthcare provider where you have it readily available. We have heard time and time again from emt's and emergency departments where you give notice ahead of time. Trying to legislate that and it is just not workable and there is no liability for not following an advanced directive when you don't have it.

Vice Chairman Berry: I understand that. Is there a situation that has come up where the patient was being resuscitated and then it becomes known that they did not wish for it, can it then be stopped? Can what is done be withdrawn?

Christopher Dodson: Withdraw on that is considered another medical treatment and it would be subject to the advanced directive once you know about it; usually to the agent that you have appointed.

Vice Chairman Berry: I believe Arizona might have been that has this?

Christopher Dodson: I believe there was a state this was modeled off and we can look at how it was set up and working.

Chairman Dever: Arizona law might be different than North Dakota.

(21:57)Chairman Dever: Anyone else in opposition, anyone else to testify?

Closed Hearing on SB 2065.

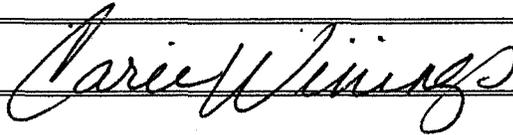
2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2065
01/10/2013
Job Number 17065

Conference Committee

Committee Clerk Signature



MINUTES:

Chairman Dever: Reopened SB 2065 for discussion on propose amendment . (Reads amendment - Attachment #1) The intent as I understand is not to open up all of the healthcare records but a record.

Senator Poolman: Would they intend to take out the "a"? I think it just trying to say it is the subjects healthcare provider not just any healthcare provider who happens to go in and ask for it.

(Discussion followed on language of the amendment; primarily the word "a" and removing it. The committee comes to a consensus that it would do what was intended)

(4:25) Chairman Dever: I think this relieves the concern of the Catholic Conference. Do we have a motion on the amendment (13.8016.01001 title 02000)?

Senator Cook: Moved to adopt the amendment as proposed.

Senator Schaible: Seconded the motion.

A Roll Call Vote was taken: Yea 7, Nay 0, Absent 0.

Amendment passes.

Chairman Dever: Are we ready to act on the bill?

Vice Chairman Berry: Moved a Do Pass As Amended.

Senator Poolman: Seconded.

Chairman Dever: Any further discussion?

A Roll Call Vote was taken: Yea 7, Nay 0, Absent 0.

SB Passed As Amended. Senator Berry will carry the bill.

13.8016.01001
Title.02000

Adopted by the Government and Veterans
Affairs Committee

January 10, 2013



PROPOSED AMENDMENTS TO SENATE BILL NO. 2065

Page 1, line 11, remove the overstrike over "er"

Page 1, line 11, remove ", or to a provider,"

Page 1, line 12, replace "including an emergency department treating the subject" with ". A health care record may be released to the subject of the document, the subject's agent, or the subject's health care provider"

Renumber accordingly

Date: 1/10/13

Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. : 2065

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendment # 13.8016.01001
002000

Motion Made By Senator Cook Seconded By Senator Schaible

Senators	Yes	No	Senator	Yes	No
Chairman Dick Dever	✓		Senator Carolyn Nelson	✓	
Vice Chairman Spencer Berry	✓		Senator Richard Marcellais	✓	
Senator Dwight Cook	✓				
Senator Donald Schaible	✓				
Senator Nicole Poolman	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Berry

If the vote is on an amendment, briefly indicate intent:

Date: 1/10/13

Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. : 2065

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Senator Berry Seconded By Senator Poolman

Senators	Yes	No	Senator	Yes	No
Chairman Dick Dever	✓		Senator Carolyn Nelson	✓	
Vice Chairman Spencer Berry	✓		Senator Richard Marcellais	✓	
Senator Dwight Cook	✓				
Senator Donald Schaible	✓				
Senator Nicole Poolman	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Berry

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2065: Government and Veterans Affairs Committee (Sen. Dever, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2065 was placed
on the Sixth order on the calendar.

Page 1, line 11, remove the overstrike over "or"

Page 1, line 11, remove ", or to a provider."

Page 1, line 12, replace "including an emergency department treating the subject" with ". A health care record may be released to the subject of the document, the subject's agent, or the subject's health care provider"

Renumber accordingly

2013 HOUSE HUMAN SERVICES

SB 2065

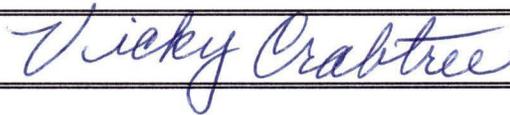
2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

SB 2065
March 6, 2013
Job #19518

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to health care record registry of health care directives and to declare an emergency.

Minutes:

See Testimony #1

Chairman Weisz opened the hearing on SB 2065.

Sheldon Wolf: Director of the ND Health Information Technology testified in support of the bill. (See Testimony #1)

3:05

Rep. Laning: The release of information to the health care providers, is that with the patient's authorization?

Wolf: You can opt out if you want to.

NO OPPOSITION

Chairman Weisz closed the hearing on HB 2065.

2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

SB 2065
March 26, 2013
Job 20462

Conference Committee



Explanation or reason for introduction of bill/resolution:

Minutes:

Chairman Weisz: Opened meeting on SB 2065. They were waiting to hear if there were changes and then ask for an amendment. This didn't happen so we can move forward.

Representative Laning: All this does is release information to the IT Department?

Chairman Weisz: No. This is for the provider not for the IT. We set up a registry in 2007 or 2009 having to do with your health care director. This was a one-stop-shop so that any provider was supposed to be able to access and find out if there was a health care director for that particular individual. With the system of HIT in 2009, in 2011 we moved it to IT, so they are responsible now for maintaining that registry. This language makes it fit into what we are doing now with electronic health records and the health information network that the Fed's said everyone has to do. This is saying is that that can be directly released to the subjects (individual or individual's agent or provider).

Representative Laning: So the information already exists then?

Chairman Weisz: Right. There is already a registry in place. This clarifies who has access to the information.

Representative Laning: I move a Do Pass on Engrossed SB 2065. Seconded by Representative Kiefert.

A Do Pass Roll Call vote: Yes = 11, No = 0, Absent = 2. **Carrier:** Representative Laning.

Meeting adjourned.

Date: 5-26-19
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2065**

House Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Laning Seconded By Rep. Kiefert

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	/		REP. MOONEY	/	
VICE-CHAIRMAN HOFSTAD	/		REP. MUSCHA	/	
REP. ANDERSON	/		REP. OVERSEN	/	
REP. DAMSCHEN	/				
REP. FEHR	A				
REP. KIEFERT	/				
REP. LANING	/				
REP. LOOYSEN	/				
REP. PORTER	A				
REP. SILBERNAGEL	/				

Total (Yes) 11 No 0

Absent 2

Floor Assignment Rep. Laning

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2065, as engrossed: Human Services Committee (Rep. Weisz, Chairman)
recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).
Engrossed SB 2065 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

SB 2065

**TESTIMONY BEFORE THE SENATE
GOVERNMENT AND VETERAN'S AFFIARS COMMITTEE
SENATE BILL 2065
JANUARY 10, 2013**

Mr. Chairman, members of the committee, I am Sheldon Wolf, the ND Health Information Technology Director. I am here today to provide support for Senate Bill 2065 on behalf of the Health information Technology Office and the Health Information Technology Advisory Committee (HITAC) (Attachment A).

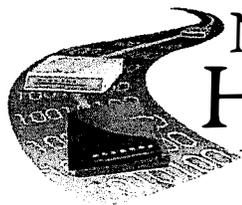
HITAC is charged with making recommendations and implementing a statewide interoperable health information infrastructure that is consistent with emerging national standards and promotes interoperability of health information systems for the purpose of improving health care quality, patient safety, and overall efficiency of health care and public health services.

First a little history, in 2009, Senate Bill 2237 created an advance directive repository that would be located in the Secretary of State's Office. In 2011, Senate Bill 2037 moved that responsibility to the Information Technology Division. The change was made to move it to ITD because the Center for Medicare and Medicaid Services (CMS) had developed and issued regulations regarding the meaningful use of electronic health records systems and the Office of National Coordinator for Health Information Technology (ONC) provided each state with funds to connect disparate health record systems. Healthcare advance directives were included in the CMS initiative. Subsequently, it was determined that the best place for the repository would be within the Health Information Network (NDHIN) so patients could submit their healthcare advance directive once and it would be accessible by providers through the NDHIN.

Currently we plan to have the information available in a registry linked to the NDHIN. When a provider queries on that system for an individual, the system will provide information to the providers such as prescriptions, allergies, and the advance directive. You could think of it as a one-stop shop to find out the most important information on a patient. However, as we were developing policies and procedures for the NDHIN, we noted that the law could limit the release of the information to the one group of people that can carry out the wishes of the patient, the provider. Since we are trying to get to a point where patient information is available electronically, and accessible to a provider when and where they need it, we would like to have subsection 5 of section 23-06.05-19 amended to include “, **or a provider, including an emergency department treating the patient.**”

Providers, in this case would include medical doctors, emergency medical service providers, and other medical staff who have a need to see this information to treat the patient.

Thank you for the opportunity to appear before you today, I would be happy to address any questions.



North Dakota Health Information Technology

Attachment A

Quality Healthcare for all North Dakotans - Anywhere, Anytime

MISSION

Advance the adoption and use of technology to exchange health information and improve healthcare quality, patient safety and overall efficiency of healthcare and public health services in North Dakota.

VISION

Quality Healthcare for all North Dakotans – Anywhere, Anytime.

Website: www.healthit.nd.gov

ND Health Information Technology Advisory Committee

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CHAIR – GOVERNANCE DOMAIN WORKGROUP

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January 10, 2013

PROPOSED AMENDMENTS TO SENATE BILL NO. 2065

Page 1, line 11, remove the overstrike over "or"

Page 1, line 11, replace ", or to a provider, " " with ". "

Page 1, line 12, replace "including an emergency department treating the subject" with "A

healthcare record may be released to the subject of the document, the subject's

agent or a health care provider"

Renumber accordingly

#1

**TESTIMONY BEFORE THE HOUSE
HUMAN SERVICES COMMITTEE
SENATE BILL 2065
MARCH 6, 2013**

Mr. Chairman, members of the committee, I am Sheldon Wolf, the ND Health Information Technology Director. I am here today to provide support for Senate Bill 2065 on behalf of the Health information Technology Office and the Health Information Technology Advisory Committee (HITAC) (Attachment A).

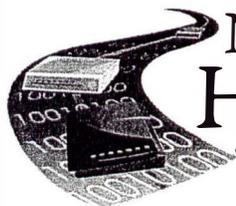
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North Dakota Health Information Technology

Quality Healthcare for all North Dakotans - Anywhere, Anytime

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