

FIRST ENGROSSMENT
with Senate Amendments

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1561

Introduced by

Representatives Schneider, Gruchalla, Kasper

Senator Wanzek

1 A BILL for an Act to create and enact a new section to chapter 65-05 of the North Dakota
2 Century Code, relating to a treating doctor's opinion in workers' compensation decisions; to
3 provide for application; and to declare an emergency.

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

5 **SECTION 1.** A new section to chapter 65-05 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Treating doctor's opinion.**

8 1. If the organization does not give an injured employee's treating doctor's opinion
9 controlling weight, the organization shall establish that the treating doctor's opinion
10 is not well-supported by medically acceptable clinical and laboratory diagnostic
11 techniques or is inconsistent with the other substantial evidence in the injured
12 employee's record based on one or more of the following factors:

- 13 a. The length of the treatment relationship and the frequency of examinations;
- 14 b. The nature and extent of the treatment relationship;
- 15 c. The amount of relevant evidence in support of the opinion;
- 16 d. How consistent the opinion is with the record as a whole;
- 17 e. Appearance of bias;
- 18 f. Whether the doctor specializes in the medical issues related to the opinion;
- 19 and
- 20 g. Other relevant factors.

21 2. This section does not apply to managed care programs under section 65-02-20.
22 For purposes of this section, the organization shall determine whether a doctor is
23 an injured employee's treating doctor.

1 **SECTION 2. APPLICATION.** This Act applies only to claims filed on or after the
2 effective date of this Act.

3 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.