

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1561
(Representatives Schneider, Gruchalla, Kasper)
(Senator Wanzek)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Treating doctor's opinion.

1. If the organization does not give an injured employee's treating doctor's opinion controlling weight, the organization shall establish that the treating doctor's opinion is not well-supported by medically acceptable clinical and laboratory diagnostic techniques or is inconsistent with the other substantial evidence in the injured employee's record based on one or more of the following factors:
 - a. The length of the treatment relationship and the frequency of examinations;
 - b. The nature and extent of the treatment relationship;
 - c. The amount of relevant evidence in support of the opinion;
 - d. How consistent the opinion is with the record as a whole;
 - e. Appearance of bias;
 - f. Whether the doctor specializes in the medical issues related to the opinion; and
 - g. Other relevant factors.
2. This section does not apply to managed care programs under section 65-02-20. For purposes of this section, the organization shall determine whether a doctor is an injured employee's treating doctor.

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

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1561 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 90 Nays 0 Absent 4

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 41 Nays 0 Absent 6

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State