

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1365

Introduced by

Representatives Vigesaa, Devlin, Skroch

Senators Anderson, Dever, O. Larsen

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

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

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

10 ~~4. Notwithstanding~~A guardian has general or limited authority, as determined by the
11 court, to make medical decisions on behalf of the ward, not including forced medication
12 pursuant to a physician's or advanced practice registered nurse's recommendation
13 when the power to provide forced medication is specifically included in the
14 guardianship order. However, a guardian may not consent to psychosurgery, abortion,
15 sterilization, or experimental treatment of any kind unless the procedure is first
16 approved by order of the court.

17 ~~SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.~~

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

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

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

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

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

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

11 A grant of general authority to make medical decisions includes the authority to
12 consent to involuntary treatment with prescribed medications. Except upon specific
13 findings of the court, a grant of limited authority does not include authority to consent
14 to involuntary treatment with prescribed medications.

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

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

- 21 a. The proposed prescribed medication is clinically appropriate and necessary to
22 effectively treat the ward and that the ward requires treatment;
23 b. The ward was offered that treatment and refused it or that the ward lacks the
24 capacity to make or communicate a responsible decisions about that treatment;
25 c. Prescribed medication is the least restrictive form of intervention necessary to
26 meet the treatment needs of the ward; and
27 d. The benefits of the treatment outweigh the known risks to the ward.

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