

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2291

Introduced by

Senators J. Lee, D. Larson, Nelson

Representatives McWilliams, Skroch, Schneider

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

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

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

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

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

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

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

21 3. The guardian may not consent to involuntary treatment with prescribed medication
22 solely for the convenience of facility staff or for the purpose of punishment.

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

1 A grant of general authority to make medical decisions includes the authority to
2 consent to involuntary treatment with prescribed medications. Except upon specific
3 findings of the court, a grant of limited authority does not include authority to consent
4 to involuntary treatment with prescribed medications.

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

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

- 11 a. The proposed prescribed medication is clinically appropriate and necessary to
12 effectively treat the ward and that the ward requires treatment;
13 b. The ward was offered that treatment and refused it or that the ward lacks the
14 capacity to make or communicate a responsible decision about that treatment;
15 c. Prescribed medication is the least restrictive form of intervention necessary to
16 meet the treatment needs of the ward; and
17 d. The benefits of the treatment outweigh the known risks to the ward.

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