

**2021 SENATE HUMAN SERVICES**

**SB 2221**

# 2021 SENATE STANDING COMMITTEE MINUTES

**Human Services Committee**  
Sakakawea Room, State Capitol

SB 2221  
1/27/2021

A BILL for an Act to create and enact a new subsection to section 43-15-10 of the North Dakota Century Code, relating to the powers of the state board of pharmacy, and to amend and reenact section 43-15-01 of the North Dakota Century Code, relating to the practice of pharmacy.

**Madam Chair Lee** opened the hearing on SB 2221 at 2:06 p.m. Members present: Lee, K. Roers, Hogan, Anderson, Clemens, O. Larsen.

## **Discussion Topics:**

- Hospital pharmacy dispensing
- Limited prescriptive authority
- Administrative costs of injection training
- Provider access and prescription drugs
- Prescriptive rights
- Vaccination sites

**[2:07] Senator Scott Meyer, District 18.** Introduced SB 2221.

**[2:09] Mike Schwab, Executive Vice President, North Dakota Pharmacist Association.** Provided testimony #3841 in favor.

**[2:22] Mark Hardy, Executive Director, State Board of Pharmacy.** Provided testimony #3603 in favor.

**[2:34] Megan Houn, Government Affairs, Blue Cross and Blue Shield.** Provided testimony in opposition.

## **Additional written testimony: (3)**

**Joel Kurzman, National Association of Chain Drug Stores.** Provided written testimony #4091 in favor.

**Melissa Hauer, General Counsel, North Dakota Hospital Association.** Provided written testimony #3621 in favor.

**Joan Connell, Pediatrician/Former Pharmacist.** Provided written testimony #3690 in opposition.

**Madam Chair Lee** closed the hearing on SB 2221 at 2:36 p.m.

*Justin Velez, Committee Clerk*



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**Senate Human Services Committee  
Madam Chair – Senator Judy Lee  
SB 2221 – 10:30  
1-27-2021**

Madam Chair and members of the committee, for the record, my name is Mike Schwab, Executive Vice President of the North Dakota Pharmacists Association. I am here today in support of SB 2221.

There are three main sections of this bill that are being changed. If it is okay with you, I would like to review each section as they are different in nature.

**The first section of the bill that I would like to address starts on page 1 and includes lines 13-14 and lines 19-23.**

These changes are being requested to remove certain age restrictions placed upon pharmacists who are authorized under their scope of practice to provide vaccinations. Currently, pharmacists are authorized to provide vaccinations to individuals who are 11 years or older and pharmacists can only provide the influenza (flu) vaccine to individuals who are 5 years or older.

According to the American Pharmacists Association and the National Alliance of State Pharmacy Associations, currently there are 28 states that have no age restrictions placed on pharmacists when it comes to their ability to provide vaccinations. There are a few differences state-to-

state such as some states might require a prescription, and some might require a protocol or one or the other. North Dakota allows pharmacists to provide vaccines by protocol or prescription.

We are requesting pharmacists in North Dakota be authorized to provide vaccines to individuals who are 3 years or older. This request also mirrors a current federal executive order that authorizes pharmacists to provide vaccines to individuals who are 3 years or older. This was done due to the current pandemic and as an attempt to bring some uniformity to states as it relates to pharmacists providing vaccinations. Technically speaking, pharmacists in North Dakota already have the authority to provide vaccinations to individuals 3 years and older right now and have been since this past summer. However, once the pandemic ends, we would suddenly not be allowed to do so, due to more restrictive state laws that in are in place.

We are also being told by our national organizations, they are seeing at least 12 other states looking to change their current vaccination age limitations to mirror federal authority or move to no age restrictions.

**The next section of the bill requesting a change starts on page 3 – line 30 and carries over to page 4 – line 1.**

This section deals with the definition of “emergency pharmacy practice”. Currently pharmacists are authorized to fill an emergency prescription refill for up to 72 hours. While this has been helpful, it is really an inconvenience for both the patient, pharmacist, and in some cases the practitioner. There

are also issues when an emergency refill is needed on a Friday and three days later which is a Monday, the patient is waiting on the pharmacist to get a hold of the practitioner (hoping to get a hold of them right away) so the patient can come back to pick-up the rest of their prescription supply. This is especially true for drugs such as insulin or other drugs that might cause undesirable health consequences, physical, or mental discomfort.

The change in this section would also allow the pharmacist to bill for the prescription using their NPI number if necessary. You will also see on page 4 – lines 3-10 outline the parameters when a pharmacist can only provide an emergency refill.

**The last area of the bill I would like to call your attention to is on page 7 – lines 6-7 and lines 19-23.**

These changes allow the North Dakota Board of Pharmacy to establish limited prescriptive authority to develop a statewide protocol for public health issues which is defined to include immunizations, tobacco cessation and other issues deemed appropriate by the Board of Pharmacy. As you can see in the definition, the Board would only be authorized to establish limited prescriptive authority as it relates to statewide protocols for immunizations and tobacco cessation initially. Let me explain this a little bit further to help give some context.

Immunizations are listed because pharmacists already have a statewide protocol established with the North Dakota Department of Health and has had this in place for many years. You might ask

then why does the Board of Pharmacy need to do this? To be honest, during the pandemic and going through three state health officers during a (very) short period of time caused problems and delays. Given this process has been in place for years, we would hope there are no issues with the Board of Pharmacy taking over the statewide protocol process for immunizations.

A statewide protocol for tobacco cessation is being requested because we had approached the North Dakota Department of Health during last session to jointly develop and implement a statewide protocol for pharmacists as it relates tobacco cessation. We had the protocol developed and had the blessing of the Department. However, once it went to legal review and later to the Attorney General for an opinion, it was determined that Department of Health only had authority as it relates to communicable diseases. It was determined tobacco cessation does not fall into that category and we had to put the brakes on implementing the statewide protocol.

You might ask why are pharmacists asking for limited prescriptive authority under a statewide protocol for immunizations and smoking cessation. There is plenty of evidence and growing recognition across the U.S. that pharmacists are an exceptional resource, one of the most trusted healthcare professionals, especially as it relates to public health issues, they are medication experts, many are actively engaged in wellness and prevention services and pharmacists are the most accessible healthcare provider. Not just any pharmacist can provide immunizations or tobacco cessation services. In both instances, a pharmacist needs to have completed additional certification requirements, in order to provide that service. Limited prescriptive authority is not new, and many other states have various types of limited prescriptive authority for pharmacists. Both immunizations and tobacco cessation are

two areas where pharmacists are engaged throughout the state. Vaccine administration is well established in pharmacy practice and this is a local extension. Helping an individual to quit smoking does not require a diagnosis, labs, etc. I am guessing, whether it is the department of health or certain practitioners, I think they would welcome all the help they can get engaging patients to quit using tobacco.

The statewide protocols would be based off best practices and recommendations from experts in the field, especially as it relates to tobacco cessation. Only pharmacists who have completed the extra certification requirements would be eligible to provide the service as well. If any additional statewide protocols were to be considered by the Board of Pharmacy in the future, they would have to go through the regular ruling making process before they could implement any further statewide protocols.

With that, I have concluded my testimony. I would be happy to try and answer any questions you might have for me. Thanks for your time and attention today.

Respectfully Submitted,



Mike Schwab

EVP - NDPhA



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Mark J. Hardy, PharmD, R.Ph.  
Executive Director

### **Senate Bill No 2221 – Definitions – Immunization and Vaccination**

Senate Human Services Committee – Sakakawea Room  
10:30 AM - Wednesday – January 27<sup>th</sup>, 2021

Madam Chair Lee, members of the Senate Human Services Committee, for the record I am Mark J. Hardy, PharmD, Executive Director of the North Dakota State Board of Pharmacy. I appreciate the opportunity to be here to speak to you today about Senate Bill 2221 and offer our support of the provisions in this bill.

Provisions of this bill enact the changes that were authorized under Federal HHS PREP Act declarations, authorizing Pharmacists to further engage in immunizations and vaccinations to the public. Making permanent the Executive Order authorization of Emergency Pharmacy Practice. Lastly, it allows the Board of Pharmacy to develop limited prescriptive authority through statewide protocols for public health issues identified.

First on page 1 of the bill changes the Definition of “Administration” allowing pharmacists to provide immunizations, vaccinations, and injections to individuals three years of age or older. Pharmacists are increasingly called upon as one of the most accessible health professionals in the State, to assist patients with their injections and other administrations. Evidence of the necessity of this has been demonstrated during the current pandemic where other healthcare professionals were being overwhelmed and pharmacists were able to assist with the vaccination delivery.

Good examples of this are patients receiving insulin injections for the first time, various inhalers, or ongoing administration of medications which the patient is not comfortable self-administering. As you may be aware, Pharmacists are intimately trained in their education, through the Doctor of Pharmacy Programs on providing injections and other administrations. They are considered drug experts in ensuring that the optimal therapeutic pharmaceutical outcomes are assured for their patients. We need pharmacists engaged in these activities for patients to be successful in their regimens.

Page 3 line 28 begins the “Emergency pharmacy practice” definition change. This correlates with the Executive Order 2020-09 that the profession of Pharmacy requested during the pandemic to allow pharmacists to assist patients with their needs to maintain their therapies when the provider was temporarily unavailable to obtain refill authorizations.

The current 72-hour standard presents a number of challenges operationally for a pharmacy, as well as can put the patient’s care at risk, when the provider is not able to respond in a timely fashion. A scenario pharmacists often experience are patients who run out of their insulin

medication on a Friday and we are not able to obtain a refill authorization from the prescriber, which would force the patient to either go without or go to an emergency care center at that point.

It is important that the parameters listed in that section frame the pharmacist's professional discretion on this. While this practice is very limited, it represents a very important allowance by safe-guarding the wellbeing of the patient by ensuring that their medication therapy is not unintentionally interrupted and can also bridge gaps for patients during an emergency or disaster situations, like during the COVID pandemic.

Lastly, on page 7 Section 2 provides the power to the Board of Pharmacy to establish prescriptive authority through a statewide protocol for public health issues. A recent example of this approach was Naloxone, which has been tremendously successful. Pharmacists can prescribe Naloxone to patients who may require the reversal of an opiate agent at their side, under the protocols the Board developed.

During the pandemic, the profession struggled with the changeovers in State Health Officers, who currently executes statewide protocols for most pharmacies to utilize for the purpose of providing vaccinations and immunizations to the citizens of our state. This simply provides the authority to the Board of Pharmacy to develop the protocols for providing vaccinations and immunizations.

Also included in these "Public Health Issues" was tobacco cessation, a common model in other states, which allows pharmacists to prescribe approved therapies for tobacco cessation products according to a protocol to patients who express the desire to quit. This allows those conversations to occur at the pharmacy counter which could ultimately result in action by the patient to kick the habit and provide better health outcomes overall.

There are other areas where the Board sees a statewide protocol could be utilized for other treatment modalities similar to other states where Boards have developed these protocols. This represents an expansion in the scope of pharmacist providing care, however it also provides an important opportunity to our health professionals in pharmacies to assist patients in managing their care appropriately while building efficiencies within the healthcare model.

The Board supports this legislation and is willing to implement the provisions and respectfully requests a do pass.

If you have any questions, I would be happy to answer them at this time.

## Improve Healthcare Access for North Dakota residents by Making COVID-19 Pharmacy Immunization Authority Permanent and Extended to All Routine Vaccinations

To safely reopen our nation and keep North Dakota residents healthy, it is imperative to increase immunization capacity, including COVID-19 immunization. Community pharmacy team vaccinators have played a central, supporting role in the nation's initiative to vaccinate priority populations, and the broader public, and stop the spread of COVID-19 and other vaccine preventable diseases. Accessible in communities across North Dakota and long trusted by patients to efficiently and safely provide critical vaccine services, pharmacists and their staff have stepped up to continue to meet American's vaccines needs in this critical time. The pharmacy immunization flexibilities provided during COVID-19 should extend beyond the pandemic, and include all routine vaccinations, to allow pharmacies to best meet patient preventive care needs across communities.

### Key Points:

- The federal government recently exercised emergency authority to ensure that the public can receive both COVID-19 and other ACIP recommended vaccines at their trusted pharmacies.
- Community pharmacy team immunizers are vital public health partners who are already efficiently and safely vaccinating patients. Many North Dakota residents prefer and rely on their local pharmacy for vaccinations.
- Pharmacies have a proven record of meeting the public's vaccination needs during times of public health emergencies and can accelerate access to vaccines amidst public health pandemics.
- ***North Dakota laws should be modernized to enable the full range of vaccines to be provided to citizens at their neighborhood pharmacies by codifying permanent authority for pharmacists to provide essential vaccine services:***
  - ***Recognize pharmacists' ability to order, administer, bill and be reimbursed for any FDA-authorized vaccine for ages 3 and older; and***
  - ***Recognize pharmacists' authority to delegate administration of such vaccines to trained pharmacy interns and technicians.***
  - ***NACDS urges support for SB 2221 and SB 2279.***

**Patients should have options to access life-saving vaccines from the healthcare provider of their choice. To accomplish this, states should update laws to permanently codify and maintain pharmacists' authority to provide essential vaccines that the public now expects to be available in pharmacies.**

- Laws should be updated to recognize pharmacists' ability to order, administer, bill and be reimbursed for any FDA-authorized COVID-19 vaccine for ages 3 and older; and to delegate administration of the vaccine to trained pharmacy interns and technicians.
- Additionally, laws must further be updated to fully recognize pharmacists' ability to order, administer, bill and be reimbursed for any FDA-authorized vaccine for ages 3 and older; and to delegate administration of such vaccines to trained pharmacy interns and technicians.
- During the pandemic, communities greatly benefited from the federal government exercising emergency authority under the PREP Act that allowed the public to obtain COVID-19 vaccinations, and routine childhood vaccines, from pharmacists and pharmacy staff.
- Communities and patients have become accustomed to the expanded access to preventive care in pharmacies afforded by the PREP Act flexibilities and steps should be taken to permanently codify such authority.

**COVID-19 has proven that community pharmacy immunizers are vital to quickly and safely connecting the public – including medically underserved, rural, and urban communities – with needed immunizations.**

- Nearly 90 percent of Americans live within 5 miles of pharmacy, and pharmacies are regularly open nights and weekends already providing easy access to routine vaccinations. Sometimes, they are the only available healthcare destination for patients in rural and underserved areas.
- High-risk Medicaid patients visit their pharmacies about 35 times a year, which creates a unique opportunity to provide important vaccine services to this critically at-risk population.
- Throughout the years, millions of patients have opted to receive the influenza and other recommended vaccines from pharmacies annually. In fact, the CDC reports that 1 in 3 adult influenza vaccines were provided at a community pharmacy during the 2018-2019 flu season.
- Recent polling indicates that 85% of Americans believe pharmacists should be allowed to provide a vaccine to protect against COVID-19.

**Pharmacies have a proven record of meeting the public's vaccination needs during times of public health emergencies and can accelerate access to vaccines amidst public health pandemics.**

- A CDC study found that including pharmacies in vaccine distribution during a pandemic can help the nation vaccinate 80 percent of the population seven weeks faster. *Practically speaking, this means being able to control spread of the disease and lift different local restrictions more quickly.*
- During the 2009 H1N1 influenza pandemic, the public health community relied heavily on pharmacists for vaccinations. Much of the nation's COVID-19 vaccination initiative builds on a decade of planning, research, and modeling with community pharmacies as a centerpiece due to lessons learned from H1N1.



**2021 SB 2221**  
**Senate Human Services Committee**  
**Senator Judy Lee, Chairman**  
**January 27, 2021**

Chairman Lee and members of the Senate Human Services Committee, I am Melissa Hauer, General Counsel for the North Dakota Hospital Association (NDHA). I am here to testify in support of some of the provisions of Senate Bill 2221 and with a request that some of the other provisions be stricken or amended.

We support the change provided on page three to allow a pharmacist to dispense an emergency prescription refill of up to 30 days (currently only a 72-hour supply is allowed) if the pharmacist is unable to obtain refill authorization from the prescriber. It is important for patients to have essential medication if they inadvertently ran out and the pharmacy is unable to quickly contact the patient's provider.

The bill will also allow the North Dakota Board of Pharmacy to establish limited prescriptive authority through a statewide protocol for public health issues within the scope of practice for a pharmacist. The board would be required to adopt rules to establish standards of care. We would like a definition of "prescriptive authority" to be added. It is unclear if this new prescriptive authority is intended to pertain solely to public health, or if it would pertain to other things as may be defined by the board.

The bill also provides on page one that a pharmacist may administer immunizations and vaccinations to an individual who is at least three years of age. While catching up on, or getting better immunization rates, is every health care provider's goal, we are concerned about vaccinating children that young in a non-healthcare setting. Our members expressed most concern about this portion of the bill. Here is how one physician described his concern:

Three years of age is simply too young. There has been a very limited amount of time to determine the status of their immune system. In many cases, these children will have been neglected without regular medical follow-up and no documentation of allergies, etc. Most importantly, if there is a catastrophic reaction to a pharmacy-based vaccination, pharmacies for the most part will be completely unprepared. Intravenous access is “the” most important first step in anaphylaxis and is exceedingly difficult in children, often requiring a skilled and experienced practitioner. Administration of crystalloid is key in resuscitation and is not in the pharmacy protocol for treatment of adverse reactions.

The best practice to prevent allergic reactions is to identify individuals at increased risk by obtaining a history of allergy to previous vaccinations and vaccine components that might indicate an underlying hypersensitivity. We believe such young children should receive vaccines in a health care setting from a pediatrician, Nurse Practitioner, or Physician Assistant who knows this medical history and who can quickly respond if there is a serious reaction. If vaccination of such young children by pharmacists is allowed, we recommend adding a requirement that pharmacies be prepared to treat adverse reactions, including anaphylaxis in both children and adults.

In summary, we support portions of the bill as noted and request some provisions be removed or amended as described. I would be happy to respond to any questions you may have. Thank you.

Respectfully Submitted,

Melissa Hauer, General Counsel/VP  
North Dakota Hospital Association

Senate Bill 2221- In Opposition  
Human Services Committee  
67<sup>th</sup> Legislative Assembly of North Dakota  
January 27, 2021

Good morning Chairman Lee, Vice Chair Roers, and Human Service Committee Members,

My name is Joan Connell. As a pediatrician and a former pharmacist, I ask that you Do-Not-Pass Senate Bill 2221. While I appreciate the intent to make immunizations available to all, I am extremely concerned that further decreasing the age that pharmacists may administer vaccines will result in fewer children being seen for well checks. Here is a link

[https://downloads.aap.org/AAP/PDF/periodicity\\_schedule.pdf](https://downloads.aap.org/AAP/PDF/periodicity_schedule.pdf) to a chart that indicates the types of age-based screening and anticipatory guidance services that are provided to children at their well checks. Blue Cross Blue Shield of North Dakota clearly values well checks for children, as they have included well child visits for 3-6 year old children as a claims-based quality measure in their BlueAlliance quality program

<https://www.bcbsnd.com/providers/programs/bluealliance/provider-measurement> . This anticipatory care is so important, Centers for Medicare and Medicaid Services have established the Early and Periodic Screening, Diagnostic, and Treatment program

<https://www.medicaid.gov/medicaid/benefits/early-and-periodic-screening-diagnostic-and-treatment/index.html> to make sure that children without ready access to a physician will have access to periodic screening exams as well as receive necessary immunizations. More information about our state's program, Health Tracks, can be found here

<https://www.nd.gov/dhs/services/medicalserv/health-tracks/> .

One of the primary reasons parents bring their children to well checks is because of necessary immunizations <https://pediatrics.aappublications.org/content/142/5/e20174019> . Yet these visits are essential for screening for school readiness, as well as many other potential issues that are noted in the Bright Futures chart found in the above link. When linked together, the need for immunizations and preventive care work synergistically to motivate parents to bring children in to be seen. Furthermore, the House's Human Services Committee sat through hours of testimony just two days ago, where parents expressed the strong desire to have a provider explain immunizations and make them feel like part of the conversations. These families are begging for a medical home- which is what every North Dakota patient deserves, and which is absolutely necessary to improve health outcomes for our citizens.

So, I ask you, as the Senate Human Services Committee- to support legislation that improves access to quality care for our North Dakota citizens, which by definition, supports the medical home. Senate Bill 2221 is not that piece of legislation. I am happy to take any questions you may have-now or in the future.

# 2021 SENATE STANDING COMMITTEE MINUTES

## Human Services Committee Sakakawea Room, State Capitol

SB 2221  
2/3/2021

A BILL for an Act to create and enact a new subsection to section 43-15-10 of the North Dakota Century Code, relating to the powers of the state board of pharmacy, and to amend and reenact section 43-15-01 of the North Dakota Century Code, relating to the practice of pharmacy

**Madam Chair Lee** opened the discussion on SB 2221 at 2:44 p.m. Members present: Lee, K. Roers, Hogan, Anderson, Clemens, O. Larsen.

### Discussion Topics:

- Public health
- Administrative rules change
- Creating stakeholder committee
- Determination of reimbursement

**[2:45] Mike Schwab, North Dakota Pharmacist Association.** Provided committee with update on definition language.

**[2:55] Mark Hardy, Executive Director, North Dakota Board of Pharmacy.** Stood for any questions by the committee.

**Senator Hogan** moves **DO PASS**.

**Senator K. Roers** seconded.

Senators	Vote
Senator Judy Lee	Y
Senator Kristin Roers	Y
Senator Howard C. Anderson, Jr.	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Oley Larsen	N

The motion passed 5-1-0

**Senator Clemens** will carry SB 2221.

**Senator Hogan** moves to **RECONSIDER COMMITTEE ACTION**.

**Senator Anderson** seconded.

**Voice vote – motion passed.**

**Senator K. Roers** moves to **ADOPT AMENDMENT** add emergency clause.

**Senator Hogan** seconded.

**Voice vote – motion passed.**

**Senator Hogan** moves **DO PASS, AS AMENDED.**  
**Senator K. Roers** seconded.

<b>Senators</b>	<b>Vote</b>
Senator Judy Lee	Y
Senator Kristin Roers	Y
Senator Howard C. Anderson, Jr.	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Oley Larsen	N

The motion passed passed 5-1-0.

**Senator Clemens** will carry SB 2221.

**Additional written testimony:** N/A

**Madam Chair Lee** closed the discussion on SB 2221 at 3:01 p.m.

*Justin Velez, Committee Clerk*

February 3, 2021

CS  
2/3  
1 of 1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2221

Page 1, line 2, replace ", and" with a semicolon

Page 1, line 3, after "pharmacy" insert "; and to declare an emergency"

Page 7, after line 23, insert:

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

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2221: Human Services Committee (Sen. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2221 was placed on the Sixth order on the calendar.

Page 1, line 2, replace ", and" with a semicolon

Page 1, line 3, after "pharmacy" insert "; and to declare an emergency"

Page 7, after line 23, insert:

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

Renumber accordingly

**2021 HOUSE HUMAN SERVICES**

**SB 2221**

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Human Services Committee**  
Pioneer Room, State Capitol

SB 2221  
3/09/2021 1037 AM

Relating to the powers of the state board of pharmacy; relating to the practice of pharmacy; and to declare an emergency
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**Chairman Weisz** opened the hearing at 10:37 a.m.

<b>Representatives</b>	<b>Attendance</b>
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	A
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

**Discussion Topics:**

- Limited prescriptive authority
- Age restriction removal
- Tobacco cessation

**Sen. Scott Meyer, District 18 (10:37)** introduced the bill and submitted testimony #8277.

**Mike Schwab, Executive Vice President North Dakota Pharmacists Association (10:40)** testified in favor and submitted testimony #8174.

**Mark Hardy, North Dakota Board of Pharmacy (10:58)** testified in favor and submitted testimony #8059.

**Chairman Weisz** adjourned at 11:06 a.m.

*Tamara Krause, Committee Clerk*

03/09/21



## North Dakota Senate

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Committees:  
Finance and Taxation  
Government and Veterans  
Affairs

Chairman Weisz and the Human Service Committee, SB 2221 is a bill I was asked to introduce by the Pharmacy Association. There are three main points to this bill:

1. Allowing pharmacists to engage in vaccinations and immunizations
2. Emergency pharmacy practice definition change
3. Allowing the Board of Pharmacy to develop a prescriptive authority

Currently, pharmacists can vaccinate children eleven years or older, this bill would reduce that age requirement to three and older. This is already being practiced through a current executive order due to the pandemic, and we are just looking to put this into law.

Next, in reference to the emergency pharmacy practice, currently a pharmacist can only provide a 72-hour refill. This has proven to be an inconvenience not only for the pharmacist, but also the patient. This would allow the pharmacist to fill the prescription refill for important drugs such as insulin without having them come back 3 days later.

Finally, the last part of this bill is dealing with limited prescriptive authority which would be a program established by the ND Board of Pharmacy. This would include such issues as immunization and tobacco cessation. Pharmacists have proven to be some of the most trusted healthcare professionals who are engaged in wellness initiatives. Using their knowledge and professionalism, many other states have implemented limited prescriptive authority for the pharmacy industry. If any protocols were considered by the board, they would need a 30-day public commenting period, and also go through the rule making process before it was implemented.

There are industry professionals in the room behind me who can likely shed more light on the issue. Mr. Chairman, I ask for a Do Pass recommendation and will stand for any questions.



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**House Human Services Committee  
Chairman – Representative Robin Weisz  
SB 2221  
3-9-2021**

Chairman Weisz and members of the committee, for the record, my name is Mike Schwab, Executive Vice President of the North Dakota Pharmacists Association. I am here today in support of SB 2221.

There are three main sections of this bill that are being changed. If it is okay with you, I would like to review each section as they are different in nature.

**The first section of the bill that I would like to address starts on page 1 and includes lines 13-14 and lines 19-23.**

These changes are being requested to remove certain age restrictions placed upon pharmacists who are authorized under their scope of practice to provide vaccinations. Currently, pharmacists are authorized to provide vaccinations to individuals who are 11 years or older and pharmacists can only provide the influenza (flu) vaccine to individuals who are 5 years or older.

According to the American Pharmacists Association and the National Alliance of State Pharmacy Associations, currently 28 states have no age restrictions placed on pharmacists when it comes to their ability to provide vaccinations. There are a few differences state-to-state such as some states might require a prescription, and some

might require a protocol or one or the other. North Dakota law allows pharmacists to provide vaccines by protocol or prescription.

We are requesting pharmacists in North Dakota be authorized to provide vaccines to individuals who are 3 years or older. This request also mirrors a current federal executive order that authorizes pharmacists to provide vaccines to individuals who are 3 years or older. This was done due to the current pandemic and as an attempt to bring some uniformity to states as it relates to pharmacists providing vaccinations. Technically speaking, pharmacists in North Dakota already have the authority to provide vaccinations to individuals 3 years and older right now and have been since this past summer. However, once the pandemic ends, we would suddenly not be allowed to do so, due to more restrictive state laws that in are in place.

We are also being told by our national organizations, they are seeing at least 12 other states looking to change their current vaccination age limitations to mirror federal authority or move to no age restrictions.

**The next section of the bill requesting a change starts on page 3 – line 30 and carries over to page 4 – line 1.**

This section deals with the definition of “emergency pharmacy practice”. Currently pharmacists are authorized to fill an emergency prescription refill for up to 72 hours. While this has been helpful, it is really an inconvenience for both the patient, pharmacist, and in some cases the practitioner. There are also issues when an emergency refill is needed on a Friday and three days later which is a Monday, the patient is

waiting on the pharmacist to get a hold of the practitioner (hoping to get a hold of them right away) so the patient can come back to pick-up the rest of their prescription supply. This is especially true for drugs such as insulin or other drugs that might cause undesirable health consequences, physical or mental discomfort.

The change in this section would also allow the pharmacist to bill for the prescription using their NPI number if necessary. You will also see on page 4 – lines 3-10 outline the parameters when a pharmacist can only provide an emergency refill.

**The last area of the bill I would like to call you attention to is on page 7 – lines 6-7 and lines 19-23.**

These changes allow the North Dakota Board of Pharmacy to establish limited prescriptive authority to develop a statewide protocol for public health issues which is defined to include immunizations, tobacco cessation and other issues deemed appropriate by the Board of Pharmacy. As you can see in the definition, the Board would only be authorized to establish limited prescriptive authority as it relates to statewide protocols for immunizations and tobacco cessation initially. Let me explain this a little bit further to help give some context.

Immunizations are listed because pharmacists already have a statewide protocol established with the North Dakota Department of Health and has had this in place for many years. You might ask then why does the Board of Pharmacy need to do this? To be honest, during the pandemic and going through three state health officers during a (very) short period of time caused problems and delays. Given this process has been in

place for years, we would hope there are no issues with the Board of Pharmacy taking over the statewide protocol process for immunizations.

A statewide protocol for tobacco cessation is being requested because we had approached the North Dakota Department of Health during last session to jointly develop and implement a statewide protocol for pharmacists as it relates tobacco cessation. We had the protocol developed and had the blessing of the Department. However, once it went to legal review and later to the Attorney General for an opinion, it was determined that Department of Health only had authority as it relates to communicable diseases. It was determined tobacco cessation does not fall into that category and we had to put the brakes on implementing the statewide protocol.

You might ask, why are pharmacists asking for limited prescriptive authority under a statewide protocol for immunizations and smoking cessation. There is plenty of evidence and growing recognition across the U.S. that pharmacists are an exceptional resource, one of the most trusted healthcare professionals, especially as it relates to public health issues, they are medication experts, many are actively engaged in wellness and prevention services and pharmacists are the most accessible healthcare provider. Not just any pharmacist can provide immunizations or tobacco cessation services. In both instances, a pharmacist needs to have completed additional certification requirements, in order, to provide that service. Limited prescriptive authority is not new, and many other states have various types of limited prescriptive authority for pharmacists. Both immunizations and tobacco cessation are two areas where pharmacists are engaged throughout the state. Vaccine administration is well established in pharmacy practice and this is a local extension. Helping an individual to quit smoking

does not require a diagnosis or labs, etc. In a lot of cases, whether it is the department of health or some practitioners, I think they would welcome all the help they can get engaging patients to quit using tobacco.

The statewide protocols would be based off best practices and recommendations from experts in the field, especially as it relates to tobacco cessation. Only pharmacists who have completed the extra certification requirements would be eligible to provide the service as well.

If any additional statewide protocols were to be considered by the Board of Pharmacy in the future, they would have to go through a 30-day public comment period as well as the regular ruling making process before they could implement any further statewide protocols.

With that, I have concluded my testimony. I would be happy to try and answer any questions you might have for me. Thanks for your time and attention today.

Respectfully Submitted,



Mike Schwab

EVP - NDPhA



#8059

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**STATE BOARD OF PHARMACY**

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Mark J. Hardy, PharmD, R.Ph.  
Executive Director

**Senate Bill No 2221 – Definitions – Immunization and Vaccination**

House Human Services Committee – Pioneer Room  
10:30 AM - Tuesday – March 9<sup>th</sup>, 2021

Chairman Weisz, members of the House Human Services Committee, for the record I am Mark J. Hardy, PharmD, Executive Director of the North Dakota State Board of Pharmacy. I appreciate the opportunity to be here to speak to you today about Senate Bill 2221 and offer our support of the provisions in this bill.

Provisions of this bill enact the changes that were authorized under Federal HHS PREP Act declarations, authorizing Pharmacists to further engage in immunizations and vaccinations to the public. Making permanent the Executive Order authorization of Emergency Pharmacy Practice. Lastly, it allows the Board of Pharmacy to develop limited prescriptive authority through statewide protocols for public health issues identified.

First on page 1 of the bill changes the Definition of “Administration” allowing pharmacists to provide immunizations, vaccinations, and injections to individuals three years of age or older. Pharmacists are increasingly called upon as one of the most accessible health professionals in the State, to assist patients with their injections and other administrations. Evidence of the necessity of this has been demonstrated during the current pandemic where other healthcare professionals were being overwhelmed and pharmacists were able to assist with the vaccination delivery.

Good examples of this are patients receiving insulin injections for the first time, various inhalers, or ongoing administration of medications which the patient is not comfortable self-administering. As you may be aware, Pharmacists are intimately trained in their education, through the Doctor of Pharmacy Programs on providing injections and other administrations. They are considered drug experts in ensuring that the optimal therapeutic pharmaceutical outcomes are assured for their patients. We need pharmacists engaged in these activities for patients to be successful in their regimens.

Page 3 begins the “Emergency pharmacy practice” definition change. This correlates with the Executive Order 2020-09 that the profession of Pharmacy requested during the pandemic to allow pharmacists to assist patients with their needs to maintain their therapies when the provider was temporarily unavailable to obtain refill authorizations.

The current 72-hour standard presents a number of challenges operationally for a pharmacy. This can put the patient’s care at risk; when the provider is not able to respond in a timely fashion. A scenario pharmacists often experience are patients who run out of their insulin

medication on a Friday. IF the pharmacist is unable to obtain a refill authorization from the prescriber, the patient is in a situation to either go without or go to an emergency care center at that point.

It is important that the parameters listed in that section frame the pharmacist's professional discretion on these decisions. While this practice is very limited, it represents a very important allowance by safe-guarding the wellbeing of the patient by ensuring that their medication therapy is not unintentionally interrupted and can also bridge gaps for patients during an emergency or disaster situations, like during the COVID pandemic.

Lastly, on page 7 Section 2 provides the power to the Board of Pharmacy to establish prescriptive authority through a statewide protocol for public health issues. A recent example of this approach was Naloxone, which has been tremendously successful. Pharmacists can prescribe Naloxone to patients who may require the reversal of an opiate agent at their side, under the protocols the Board developed.

During the pandemic, the profession struggled with the changeovers in State Health Officers, who currently executes statewide protocols for most pharmacies to utilize for the purpose of providing vaccinations and immunizations to the citizens of our state. This simply provides the authority to the Board of Pharmacy to develop the protocols for providing vaccinations and immunizations.

Also included in these "Public Health Issues" was tobacco cessation, a common model in other states, which allows pharmacists to prescribe approved therapies for tobacco cessation products according to a protocol to patients who express the desire to quit. This allows those conversations to occur at the pharmacy counter which could ultimately result in action by the patient to kick the habit and provide better health outcomes overall.

There are other areas where the Board sees a statewide protocol could be utilized for other treatment modalities similar to other states where Boards have developed these protocols. It is important to note that any protocols would be proposed as rules to allow for public comment. This represents an expansion in the scope of pharmacist providing care, however it also provides an important opportunity to our health professionals in pharmacies to assist patients in managing their care appropriately while building efficiencies within the healthcare model.

The Board supports this legislation and is willing to implement the provisions and respectfully requests a do pass.

If you have any questions, I would be happy to answer them at this time.

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

SB 2221  
3/09/2021 1118 AM

Relating to the powers of the state board of pharmacy; relating to the practice of pharmacy; and to declare an emergency
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**Chairman Weisz** opened the committee meeting at 11:18 a.m.

Representatives	Attendance
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	A
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	A
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

### Discussion Topics:

- SB 2221 Committee Action

**Rep. Bill Devlin (11:18)** moved Do Pass

**Rep. Todd Porter (11:18)** second

Representatives	Vote
Representative Robin Weisz	Y
Representative Karen M. Rohr	Y
Representative Mike Beltz	Y
Representative Chuck Damschen	Y
Representative Bill Devlin	Y
Representative Gretchen Dobervich	A
Representative Clayton Fegley	Y
Representative Dwight Kiefert	Y
Representative Todd Porter	Y
Representative Matthew Ruby	A
Representative Mary Schneider	Y
Representative Kathy Skroch	Y
Representative Bill Tveit	Y

Representative Greg Westlind	Y
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**Motion Carried Do Pass 12-0-2**

**Chairman Weisz** adjourned at 11:20 a.m.

*Tamara Krause, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SB 2221, as engrossed: Human Services Committee (Rep. Weisz, Chairman)**  
recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).  
Engrossed SB 2221 was placed on the Fourteenth order on the calendar.