

**2023 HOUSE HUMAN SERVICES**

**HB 1434**

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

HB 1434  
1/31/2023

A BILL for an Act to amend and reenact section 50-24.8-12 of the North Dakota Century Code, relating to investigative demands and administrative subpoenas of the Medicaid fraud control unit.

Chairman Weisz called the meeting to order at 2:46 PM.

Members Present: Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, Gretchen Dobervich

### **Discussion Topics:**

- Investigate provider fraud
- Health oversight agency
- Billing fraud
- Provide administrative subpoena power

Representative Beltz introduced HB 1434.

Marina Spahr, Director of Medicaid Fraud Control Unit, testified in favor of HB 1434, #17901.

Chairman Weisz adjourned the meeting at 3:01 PM.

*Phillip Jacobs, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

HB 1434  
2/8/2023

Relating to investigative demands and administrative subpoenas of the Medicaid fraud control unit.
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Chairman Weisz called the meeting to order at 3:04 PM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich. All present.

### Discussion Topics:

- Committee work
- Proposed amendment (23.0947.02001)

Representative Rohr moved to amend HB 1434. (23.0947.02001)

Vice Chairman Ruby seconds motion.

Voice vote carried.

Representative Beltz moves a do pass as amended.

Representative Dobervich seconded motion.

Roll call vote:

Representatives	Vote
Representative Robin Weisz	Y
Representative Matthew Ruby	Y
Representative Karen A. Anderson	Y
Representative Mike Beltz	Y
Representative Jayme Davis	Y
Representative Gretchen Dobervich	Y
Representative Clayton Fegley	Y
Representative Kathy Frelich	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	Y
Representative Carrie McLeod	Y
Representative Todd Porter	Y
Representative Brandon Prichard	Y
Representative Karen M. Rohr	Y

Motion carried 14-0-0, bill carrier: Rep. Beltz

House Human Services Committee

HB 1434

02-08-23

Page 2

Chairman Weisz adjourned the meeting at 3:09 PM.

*Phillip Jacobs, Committee Clerk By: Leah Kuball*

23.0947.02001  
Title.03000

Adopted by the House Human Services  
Committee

February 8, 2023

4  
2  
2-8-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1434

Page 2, line 30, after the underscored period insert "Disclosure pursuant to this section is not a violation of section 12.1-13-01."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1434: Human Services Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1434 was placed on the Sixth order on the calendar.

Page 2, line 30, after the underscored period insert "Disclosure pursuant to this section is not a violation of section 12.1-13-01."

Renumber accordingly

**2023 SENATE JUDICIARY**

**HB 1434**

# 2023 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Peace Garden Room, State Capitol

HB 1434  
3/7/2023

A bill relating to investigative demands and administrative subpoenas of the Medicaid fraud control unit.
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10:00 AM Chairman Larson opened the meeting.

Chairman Larson and Senators Myrdal, Estenson, Sickler, and Braunberger are present. Senator Paulson is absent. Senator Luick is absent initially but joined the meeting at 10:15 AM.

**Discussion Topics:**

- Fraud investigations
- Elder abuse
- Civil cases
- Criminal cases

10:00 AM Marina Spahr, Director, Medicaid Fraud Control Unit, Office of the Attorney General, spoke in favor of the bill and provided written testimony #22454.

10:04 AM Representative Beltz introduced the bill.

10:28 AM Chairman Larson closed the public hearing.

10:29 AM Senator Estenson moved to adopt amendment, page two overstrike lines 28-30. Motion seconded by Senator Myrdal.

10:29 AM Roll call vote was taken.

<b>Senators</b>	<b>Vote</b>
Senator Diane Larson	Y
Senator Bob Paulson	AB
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passes 6-0-1.

10:29 AM Senator Estenson moved to Do Pass the bill as amended. Motion seconded by Senator Myrdal.

10:30 AM Roll call vote is taken.



<b>Senators</b>	<b>Vote</b>
Senator Diane Larson	Y
Senator Bob Paulson	AB
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passes 6-0-1

Senator Estenson will carry the bill.

This bill does not affect workforce development.

10:30 AM Chairman Larson closed the meeting.

*Rick Schuchard, Committee Clerk*

March 7, 2023

AG  
3-7-23  
(1-1)

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1434

Page 2, line 28, remove "A person is not subject to civil or criminal liability as a result of providing written"

Page 2, remove line 29

Page 2, line 30, remove "section."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1434, as engrossed: Judiciary Committee (Sen. Larson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1434 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 2, line 28, remove "A person is not subject to civil or criminal liability as a result of providing written"

Page 2, remove line 29

Page 2, line 30, remove "section."

Renumber accordingly

**TESTIMONY**

**HB 1434**

# **MEDICAID FRAUD CONTROL UNIT**

**OFFICE OF ATTORNEY GENERAL**

**EST. AUGUST 2019**



LAW ENFORCEMENT  
AGENCY

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HEALTH OVERSIGHT  
AGENCY

**PROVIDER**

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**NOT** RECIPIENT



# When MFCU can investigate a case:

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- When there is billing fraud by a Medicaid provider
- If a Medicaid recipient is abused, neglected, or exploited financially AND there is a Medicaid nexus – Medicaid application, facility that accepts Medicaid
- If a provider, that accepts Medicaid payments, abuses, neglects, exploits, or harms a patient, whether that patient receives Medicaid or not



# Medicaid ~~Medicare~~

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Medicaid is health care coverage for low income families & individuals

ND spent \$648 million on Medicaid in 2020 – roughly \$1.3 billion a biennium

10-14% of ND population covered by Medicaid – 70,000 households & 125,000 individuals

More than 29,000 providers in ND

**Fraud per year nationally 1%-2% of Medicaid expenditures - or 6.5 million per year in ND (1%)**

# TYPES OF INVESTIGATIONS

- Billing for services/medication not provided
- Billing for more than 24 hours in a day
- Not having documents/records to support the billing
- Billing while on vacation
- Billing a more expensive service than actually provided
- Billing for unlicensed professional care
- Billing for valueless services
- Abuse or neglect of patients (assaults, homicides, GSI, theft)
- Drug Diversion – Opioid Overprescribing

# HB 1434

## technical amendments

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- When this statute was initially drafted no one in the state was certain how MFCU would actually conduct investigations and how subpoenas would be used.
- MFCU investigates both civil and criminal cases not just civil.
- Most other states' MFCUs have subpoena powers that are used for any type of investigation.
- Sections were deleted that do not apply.
- Biggest change is clarifying that the information received pursuant to a subpoena is confidential but can be shared with other law enforcement agencies or investigative partners.



# HB 1434

## technical amendments

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- Clarifies that MFCU can receive exempt and confidential records pursuant to an administrative subpoena.
- Also adds that there is no penalty for providing exempt and confidential information. However, the language I first proposed is not clear enough. I believe an amendment needs to be made to subsection 4 of the bill to read **“Disclosure pursuant to this section is not a violation of N.D.C.C. 12.1-13-01.”**
- For example, if a state board provides confidential information, they will not face liability for providing those records to MFCU pursuant to an administrative subpoena. If a suspect provides records pursuant to an administrative subpoena, they may still be liable for criminal conduct or civil false claims fraud.



STATE OF NORTH DAKOTA  
OFFICE OF ATTORNEY GENERAL

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# **MEDICAID FRAUD CONTROL UNIT**

**OFFICE OF ATTORNEY GENERAL**

**EST. AUGUST 2019**

LAW ENFORCEMENT  
AGENCY

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HEALTH OVERSIGHT  
AGENCY



**PROVIDER**

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**NOT** RECIPIENT



# Medicaid ~~Medicare~~

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- If a Medicaid recipient is abused, neglected, or exploited financially, by a provider
- If a provider, that accepts Medicaid payments, abuses, neglects, exploits, or harms a patient, whether that patient receives Medicaid or not

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# HB 1434

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# HB 1434

## technical amendments

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- Clarifies that MFCU can receive exempt and confidential records pursuant to an administrative subpoena.
- Requesting an Amendment: 6.4. ~~A person is not subject to civil or criminal liability as a result of providing written answers, testimony, or documentary material to the attorney general under this section.~~ Disclosure pursuant to this section is not a violation of section 12.1-13-01.
- For example, if a state board provides confidential information, they will not face liability for providing those records to MFCU pursuant to an administrative subpoena. If a suspect provides records pursuant to an administrative subpoena, they may still be liable for criminal conduct or civil false claims fraud.





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