

**Testimony**  
**House Bill 1088**  
**House Human Services Committee**  
**Monday, January 14, 2013**  
**North Dakota Department of Health**

Good morning, Chairman Weisz and members of the Human Services Committee. My name is Arvy Smith, Deputy State Health Officer for the North Dakota Department of Health. I am here to provide testimony in support of House Bill 1088.

Subsection 12 of Section 23-01-05 of the North Dakota Century Code (NDCC) indicates that one of the duties of the state health officer is to issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. Disease control measures may include special immunization activities and decontamination measures. The department has used this language to issue standing orders so that pharmacies can provide immunizations.

NDCC 43-15-01 (1) (a) (2) requires an order by a physician, physician assistant, or nurse practitioner for a pharmacist to provide immunizations. Many pharmacists do not have a business association with a physician so the state health officer, who is currently a physician, has issued standing orders for approximately 65 pharmacists to provide immunizations. If at some future time the state health officer is not a physician, NDCC 43-15-01 may limit the ability for some pharmacists to provide immunizations.

We have been advised by the Attorney General's Office and the State Risk Manager that the authority of the state health officer to issue orders in these circumstances needs to be clarified. The amendment stating "Written orders issued under this section shall have the same effect as a physician's standing medical order" is intended to provide that clarification, allowing the state health officer to issue standing orders that have the effect of a physician's standing medical order, even when the state health officer is not a physician. It also clarifies that orders made by Dr. Dwelle, the current state health officer, are

within the statutory scope of authority of the state health officer, not orders Dr. Dwelle makes as a licensed physician.

Current law allows a non-physician state health officer to issue orders. Note that if the governor does not appoint as state health officer a physician licensed in this state, the governor must appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer.

The amendment proposed in HB 1088 will help maintain increased access to immunizations through pharmacies when the appointed state health officer is not a physician.

This concludes my testimony and I would be happy to answer any questions you may have regarding this bill.