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Objectives

- ▶ Review of NDMA's 68th Legislative Session NDMA's legislative priorities
- ▶ Discuss legislative priority outcomes
- ▶ Understand the 2023 culture war issues and barriers to science-based arguments
- ▶ Understand the issues being discussed in the upcoming Interim Legislative Session

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ND 2023 Legislative Session




- ▶ **2023 Session:**
 - ▶ 990 bills
 - ▶ 58% from the House; 42% from the Senate
- ▶ **NDMA tracked 182 bills & resolutions:**
 - ▶ 125 passed
 - ▶ 57 failed
- ▶ Bill tracker was updated daily on ndmed.org
- ▶ 2/3 of bills passed.

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NDMA Priorities


- ▶ Medicaid
- ▶ UND SMHS
- ▶ Truth in Advertising
- ▶ Non-profit employment of Physicians
- ▶ Prior authorization
- ▶ Non-criminalization of medical care



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Medicaid Expansion

- ▶ The House Appropriations proposed reducing expansion payment rates from the existing 150% of Medicare to 125% of Medicaid rates. The proposed reduction would have saved \$17 million for the state but would have resulted in a substantial total loss of \$171 million for health care.
 - ▶ States match 10% of Federal dollars provided for expansion.
- ▶ Conference committee successfully negotiated a compromise: beginning in January 2025 reimbursement will be based on 145% of Medicare.
- ▶ Behavioral health providers are excluded.
- ▶ Overall negative impact to providers is \$29 million.



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Medicaid

- **HB 2012 Medicaid Reimbursement**
- NDMA supports sustainable payments to providers.
 - Health care operates on a fixed reimbursement system, meaning providers cannot increase charges to offset increasing labor costs. Reimbursement rates must be equitable to the cost of care.
- **INFLATORS**
 - Inflatos adjust fee schedules each year to compensate for inflation (effective July 1 of each year).
 - Physicians and other medical providers: PASSED with 3% for each year.
 - Hospitals (Prospective Payment Systems): PASSED with 0% for the first year; and 2% for the second year.



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UND School of Medicine and Health Sciences

- Received a needs-based budget in the higher education budget.
- **Challenge Grants:** requires matching funds 2 to 1 from state educational institutions.
 - Two sessions ago the medical school was excluded from challenge grants.
- UND SMHS was awarded \$2.2 million in Challenge grant opportunities.



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Truth in Advertising - PASSED!

- This is an important issue to NDMA members to ensure patients are aware of what kind of health care professional is treating them.
- The Truth in Advertising policy requires clear statements on health care providers' educational background, training, and licensing credentials through communication mediums such as advertising and name badges.



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Physician Practice Issues - PASSED

- **Freedom of Choice for Health Care Services**
 - Known as a "any willing provider" bill.
 - In 2021, this bill was amended to a study.
 - The bill provides for patients to choose a health care provider outside of network, pending the provider is willing and fully qualified to meet the terms and conditions of participation, as established by the health insurer.
 - The bill was amended to apply only to vertically integrated networks. The bills becomes effective 12/31/24.



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More Practice Issues, PASSED

- **Non-Profit Employment of Physicians**
 - North Dakota's corporate practice of medicine law limits non-profit employment of physicians to hospitals, and non-profit hyperbaric clinics.
 - NDMA proposed policy to expand non-profit employment of physicians to include all non-profits, which allows more flexibility for physician employment.



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Prior Authorization - PASSED

- ▶ North Dakota does not have a prior authorization law in place.
- ▶ NDMA supports efforts to reduce prior authorization restrictions when it comes to prescribing medical procedures and prescription drugs.
- ▶ NDMA worked with partners to develop parameters, including time limits for responding to prior authorization requests.
- ▶ This was vigorously opposed by the payors.
- ▶ Legislators settled on amending this bill to a study for further evaluation.
- ▶ The bill was vetted by the 23-24 Legislative Management Interim Committee and selected for a study.



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Public Health Issues PASSED

- ▶ Core functions of public health put into statute (SB 2153)
- ▶ State Hospital received \$12 million for building planning for new state hospital (SB 2012)
- ▶ Community Health Workers will be reimbursed by Medicaid (HB 1028)
- ▶ Medicaid for pregnant women raised to 175% of poverty for 12 months post-partum (SB 2181)
- ▶ State Health Council revised (SB 2227)



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Autopsy of children HB 1042

- ▶ **Relating to autopsies in the death of a child whose cause of death is unexplained.**
- ▶ This bill updated language related to the classification of deaths in infants and children. With this bill North Dakota law will be updated with the removal of the terminology "sudden infant death syndrome" (SIDS) which will be replaced by "unexplained sudden death in infant or child with or without intrinsic or extrinsic factors, or both".
- ▶ The coroner after consultation with the parent or guardian, shall take custody of the body and shall arrange for the performance of the autopsy, unless the county coroner, sheriff, state's attorney, and the parent or guardian all agree that an autopsy is unnecessary.



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Medicaid for Pregnant Women SB 2181

- ▶ Providing TANF assistance to eligible women no matter what stage of pregnancy. Current law only provided assistance to women who are in their third trimester
- ▶ Providing TANF assistance and Medicaid to otherwise eligible pregnant women who are lawfully present in the United States. Previously, assistance was only available to legal immigrants if they have been here for more than five years.
- ▶ The department shall seek the necessary approval to expand medical assistance coverage for pregnant women with income below one hundred seventy-five percent of the federal poverty level. Services under this section must be for the duration of the pregnancy and the postpartum period consisting of the twelve-month period beginning on the last day of the pregnancy.



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Update to reporting SB 2103

- ▶ Prior to SB 2103, testing was only done for controlled substances. This law change allows for testing to be completed when there is severe or chronic use of alcohol.
- ▶ The proposed change amends section 50-25.1-17 of the North Dakota Century Code to add reference to "alcohol misuse" to the list of reasons that toxicology testing may occur after delivery where obstetrical complications have occurred.
- ▶ Newborn definition was changed to infant to allow assessment up to 12 months of age



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White-Bagging - PASSED

- ▶ Relating to clinician-administered drugs. Restrictions on pharmacy benefit managers.
- ▶ The practice involves insurance companies forcing medications that are administered in a clinic to be purchased through an insurer's exclusive pharmacy of choice.
- ▶ The bill prohibits pharmacy benefit managers (PBM) to require patients to purchase prescription drugs exclusively through mail order pharmacy.
- ▶ The PBM may not interfere with a patient's right to obtain clinician administered drugs from the patient's provider of choice.



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Board of Medicine Changes

- **Physicians Health Program**
 - Extends this program to include students – both medical and physician assistant students – at UND SMHS.
 - Requires the ND Professional Health Program (NDPHP) to collaborate with the Board on a policy in which participants can obtain a second opinion.
 - Provides clarification on when records are disclosed, and testimony provided by the NDPHP.
- **Naturopath Scope of Practice**
 - Naturopaths licensed by the BOM.
 - Formulary developed by BOM.
 - One naturopath member on the BOM.



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Medical Practice Act Changes

- Cleans up language to remove outdated, redundant language and provide clarification on several sections.
- Changing the licensure standards of international graduates to align with the national standards of requiring 24 months of residency to be eligible for licensure.
- Allows individuals licensed in another jurisdiction who may not meet all of North Dakota's technical licensure requirements but who are uniquely qualified through education and training and would make a unique or special contribution to practice medicine in the state – especially for those underserved areas of practice – to obtain a ND license.
- Moving to a two-year licensure system as requested by the licensees and in keeping with the majority of other states/jurisdictions.



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Continued, Medical Practice Act

- Adds a Physician Assistant member to the BOM.
- Implements record retention requirements of licensees and with the Board.
- Clarifies who may use the words “physician,” “medical doctor,” “doctor of osteopathy,” and “physician assistant”.
- Outlines an exception to CME requirements for those licensees who hold an active national board certification as those national certifications already require and vet the CMEs of the physicians.
- Updates what information needs to be reported to the Board of Medicine including malpractice, discipline in other jurisdictions, and restrictions of privileges from a health care facility due to competency concerns.



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Office of Immigration - SB 2142

- Created an agency dedicated to the recruitment and assistance of foreign workers.
- Located in Department of Commerce.
- Develop a strategy to help businesses recruit and retain foreign labor.
- Advise policymakers on immigrant integration and foreign labor issues.



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Childcare Funding

- \$22M for childcare assistance program
- \$15M for enhanced childcare assistance for infant and toddlers
- \$3M for quality tiers
- \$2.3M for low-income assistance
- \$500K for technical assistance and outreach
- \$5M for employer match program
- \$7M for grants and shared services
- \$1.8M for care providers during nontraditional hours
- \$2M for worker training stipends
- \$3M for quality infrastructure development for providers
- \$1M for streamlining background checks



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Miscellaneous

- HB 1146 - Fertility benefits mandate – failed
- HB 1177 - Sales Tax exemption – children's diapers - passed
- SB 2335 – Developmental disability definition was enlarged to include fetal alcohol spectrum disorders, including fetal alcohol syndrome, partial fetal alcohol syndrome, and alcohol-related neurodevelopmental disorder - passed



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Other Bills of Interest

- **Tax Relief:** \$358 million in income tax relief and \$156.7 million in property tax relief.
- **Pension Plan:** \$219.2 million to unfunded pension liability – this coincides with closing the state’s defined-benefit plan for new hires and putting them in a defined-contribution plan.
- **State Employee Pay:** \$211 million, providing 6% and 4% pay increases for state employees.



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Culture War Issues

Vaccines

Trans gender

Abortion

Parental Rights

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Vaccines - PASSED No Discrimination

- **HB 1502 Medical Certification Requirements:**
- This bill initially prohibited hospitals and health care facilities from requiring employees to receive certain vaccinations, and prohibited a health care facility from denying patients access to hospital care based on vaccine status.
- It also proposed that a medical certification must include data regarding whether a death is related to severe acute respiratory syndrome coronavirus 2, identified as SARS CoV 2 (COVID 19), including the COVID-19 vaccination status of a COVID-19-related death and whether a death is caused by a COVID-19 vaccine.
- The bill was amended to only provide that a hospital cannot deny care based on COVID-19 vaccination status.



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Vaccine Passport - PASSED

- **SB 2274 Discrimination Based on Vaccination Status or Possession of Immunity Passport**
- This bill would have prohibited all vaccine requirements for health care facilities. The bill was amended to the language from special session, and exempts health care facilities, education and others; further, the vaccines prohibited include only Covid 19 vaccines and Emergency Use Authorized drugs.



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Vaccine Bills - FAILED

- **HB 1200 School Required Vaccines:** This bill initially placed restrictions on the use of COVID-19 vaccinations and experimental vaccines for students at higher education institutions and changed school and day-care immunization laws. The definition of experimental vaccination eliminates all requirements for vaccination.
- **HB 1505 Prohibition on Requiring a Vaccination:** This bill prohibited requiring an individual to undergo a vaccination, an inoculation, or any means of inducing an immune response as a condition for the individual to exercise any right, perform any duty, or enjoy any privilege. A violation of this section is a class C felony.
- **SB 2384 mRNA Vaccines:** This bill would have prohibited the use of vaccines developed using messenger ribonucleic acid technology in the state; and to provide a penalty. Class A misdemeanor.



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Parental Consent Bills - Both Failed

- **SB 2188 -** Requiring parental consent for minors' health care services, fundamental parental rights, a school district's obligation to notify parents of their rights related to education, and data collection.
- **SB 2260 -** Relating to fundamental parental rights, parental involvement in education, and parental right to consent to medical treatment of the parent's child. The bill would have required prior, written consent of parents for all healthcare provided to a child.
 - ▶ A violation would have allowed a parent to sue the health care provider.
 - ▶ NDMA worked with sponsor to take health care out of the bill



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Abortion Law Fix

- **SB 2150:** North Dakota's abortion trigger law did not allow for treatment of ectopic pregnancies, premature rupture of membranes, or pre-eclampsia without the threat of prosecution.
- NDMA worked with all stakeholders to assure that North Dakota's abortion law protects the health and the life of the mother.
- Removes the affirmative defense stipulations.
- ND Supreme Court held that ND constitution protects the right to abortion to save the life and health of the mother.



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Birth Certificate - gender identification

- **HB 1139:** A birth record must include the designation of the sex of the child which must be either male or female. An entry of "not yet determined" may not be entered unless the sex cannot be determined based on the child's non ambiguous sex organs, chromosomes, and endogenous hormone profiles at birth.
- **HB 1297:** The sex designation on a birth record of an individual born in this state may not be amended due to a gender identity change.



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Criminalization of Medical Care

- **HB 1254** This bill makes it a Class B felony to treat a minor with surgery, or with medication for transgender care. Amended to lower the penalty to a misdemeanor for medication. **PASSED**
- **HB 1301** This bill grants a private right of action for medical gender transitioning procedures on a minor with a 30-year statute of limitations; grants a public right of action where a civil penalty would be deposited in the general fund and also provides for licensing sanctions. **FAILED**



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Bills That Did Not Pass- Challenges

- **Assault Against a Health Care Worker**
- This bill increases the simple assault penalty to Class C felony for all health care workers. Currently, only emergency room workers have the higher level of penalty. This expands that category to all health care workers. The bill passed in the House and failed by one vote on the Senate floor.
- **Telehealth Payment Parity**
- When it comes to telehealth, NDMA's policy goal was to implement a policy for behavioral health payment parity telehealth services. This policy could help close coverage gaps, particularly in rural areas. Unfortunately, the bill was defeated on the Senate floor.



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2023 Interim - Studies

- **SB 2389. Study of the prior authorization process in health benefit plans.**
- SB 2012. Health Care Task Force to understand and create transparency around health care costs and the drivers of cost growth in health care costs.
- SB 2015. Study of the state's guardianship programs.
- SB 2085. Study of the delivery of emergency medical services in the state.
- HB 1003. Artificial Intelligence study.



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Interim Studies - Continued

- **HB 1026:** Study regarding the implementation of the recommendations of the 2018 North Dakota behavioral health system study conducted by the human services research institute and the 2022 acute psychiatric and residential care needs study conducted by Renee Schulte Consulting, LLC.
- **HB 1476:** Study of the impact of contract nursing agencies.
- **SB 2012:** Benefits of basing provider reimbursement rates for the Medicaid program in accordance with a provider's performance under established and accepted value-based care metrics.
- **HCR 3017:** Study the need for inpatient mental health care for children.



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NORTH DAKOTA MEDICAL ASSOCIATION
COVID-19
Physician Advisory Group

- ▶ Physician Advisory Group (PAG)
 - ▶ Up-to-Date News on State-Level Issues
 - ▶ Up-to-Date Information on COVID developments
 - ▶ Physician Support Group
- ▶ Wednesday Webinars
 - ▶ Advocacy Tips
 - ▶ Wellness Tips
 - ▶ Touch-Point With Other Physicians

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