

**Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017**

HOUSE BILL NO. 1365
(Representatives Vigesaa, Devlin, Skroch)
(Senators Anderson, Dever, O. Larsen)

AN ACT to create and enact a new section to chapter 25-03.1, a new subsection to section 30.1-28-04, and a new subsection to section 30.1-28-12 of the North Dakota Century Code, relating to powers, duties, and authority of a guardian regarding medical decisions; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Guardian consent to involuntary treatment with prescribed medication.

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

1. The guardian's consent for involuntary treatment with prescribed medication may not be in effect for more than ninety days without receiving another recommendation and determination pursuant to section 3 of this Act.
2. The patient has the right to be free of the effects of medication at the preliminary or treatment hearing by discontinuance of medication no later than twenty-four hours before the hearing unless, in the opinion of the prescriber, the need for the medication still exists or discontinuation would hamper the patient's preparation for and participation in the proceedings.

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

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

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

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

- a. The proposed prescribed medication is clinically appropriate and necessary to effectively treat the ward and that the ward requires treatment;
- b. The ward was offered that treatment and refused it or that the ward lacks the capacity to make or communicate a responsible decision about that treatment;

- c. Prescribed medication is the least restrictive form of intervention necessary to meet the treatment needs of the ward; and
- d. The benefits of the treatment outweigh the known risks to the ward.

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1365 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 92 Nays 0 Absent 2

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 46 Nays 0 Absent 1

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2017.

Approved at _____ M. on _____, 2017.

Governor

Filed in this office this _____ day of _____, 2017,
at _____ o'clock _____ M.

Secretary of State