19.0476.02000

FISCAL NOTE

Requested by Legislative Council
02/05/2019

Amendment to: Engrossed HB 1063

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

see attached

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

see attached

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: John Halvorson
Agency: WSI
Telephone: 328-6016
Date Prepared: 02/05/2019

WORKFORCE SAFETY & INSURANCE
2019 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: Engrossed HB 1063

BILL DESCRIPTION: Duration/Dosing Limits for Certain Drug Therapies

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its consulting actuaries, The Burkhalter Group, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The engrossed legislation establishes duration limits and maximum payable dosing limits for opioid therapies; establishes duration limits for benzodiazepines; and outlines a dispute resolution process for requests to depart from the limits proposed.

FISCAL IMPACT: To the extent there are improved return-to-work and medical outcomes resulting from the duration/dosing limitations for the identified drug therapies, there would be anticipated cost reductions which would be reflected in subsequent premium rate levels.

DATE: February 5, 2019

19.0476.01000

FISCAL NOTE

Requested by Legislative Council
12/21/2018

Bill/Resolution No.: HB 1063

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

see attached

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

see attached

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: John Halvorson
Agency: WSI
Telephone: 328-6016
Date Prepared: 12/21/2018

WORKFORCE SAFETY & INSURANCE
2019 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: HB 1063

BILL DESCRIPTION: Duration/Dosing Limits for Certain Drug Therapies

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its consulting actuaries, The Burkhalter Group, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed legislation establishes duration limits and maximum payable dosing limits for opioid therapies; establishes duration limits for benzodiazepines and muscle relaxants; and outlines a dispute resolution process for requests to depart from the limits proposed.

FISCAL IMPACT: To the extent there are improved return-to-work and medical outcomes resulting from the duration/dosing limitations for the identified drug therapies, there would be anticipated cost reductions which would be reflected in subsequent premium rate levels.

DATE: December 21, 2018

2019 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1063

2019 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1063
1/22/2019
Job #31166

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Ellen LeTang by ReMae Kuehn

Explanation or reason for introduction of bill/resolution:

Duration limits for opioid therapy, benzodiazepine & muscle relaxants.

Minutes: Attachments 1-6

Vice Chairman Lefor: Opens the hearing on HB 1063.

Chairman Keiser, Sponsor: Introduces HB 1063. This bill follows the best practices in the use of opioids. Workforce Safety deals with significant injuries. 43% of opioid addiction starts with back pain. This bill is trying to follow the best practices. Opioid therapy is available up to 30 days. Then a new prescription is required. After a certain time period opioids are not beneficial. There are some exceptions located on page 1, items 1-7. On page 2, lines 6-8 there may be an amendment proposed by WSI. The bill provides an appropriate strategy for treating pain management for injured workers.

Rep C Johnson: The initial outpatient prescription is for seven days at a time and not to exceed a 30-day time limit?

Chairman Keiser: That is what this bill says. I believe that we need to manage it with the treating physician. We have many injured workers who are going to be on opioids for the rest of their life.

Rep Laning: Are there any studies that show when you start to develop an opioid dependency?

Chairman Keiser: I'm not familiar with any.

Rep Schauer: Is the state playing doctor?

Chairman Keiser: This is a managed care program. This is like the Sanford Health Plan for state employees with the same limitations.

Rep Richter: When you receive a second prescription, are you required to turn in your first prescription.

Chairman Keiser: No. Since then we have implemented several programs such as registering so other prescribers know.

Tim Wahlin~Workforce Safety & Insurance (WSI): Attachment 1.

(20:35)
Rep M Nelson: This looks like it is based on the Center for Disease Control guidelines. Are you aware that the CDC came out and said the guidelines are not to be used this way?

Tim Wahlin: Yes. That is one of the sources that Sedgwick used in making the recommendations.

Rep M Nelson: Does Sedgwick include medical providers and experts or are they just a group of accountants that do audits?

Tim Wahlin: The reason they are chosen is because they have expertise in the industry of Worker's Compensation.

Rep Laning: Have you seen any reports on when opioid dependency begins?

Tim Wahlin: Two sessions ago we put in a long-term opioid therapy statute which drew the line at 90 days of opioid use. During the discussion for this bill one of the physicians pointed out that opioid therapies extending beyond 30 days has a 65% chance that the patient will never get off of opioids. How you define habituation? You are not going to get a solid answer.

Rep P Anderson: Does this have to be in statute or could it be part of your managed care protocol?

Tim Wahlin: There is an argument that we could build administrative rules to encompass portions of this. The danger in doing that is that WSI is making rules which will affect patient care, which will affect injured worker care in an area that does not get the debate we are having here.

Rep M Nelson: Are you familiar with the HHS (Health and Human Services) guidelines for pain management. They say that this is not the way to do things. Have you looked at that?

Tim Wahlin: No.

Arik Spencer, Greater North Dakota Chamber: We are here to support the bill because it allows WSI to comply with their performance audit.

(25:20)
Mylynn Tuftee~MBA, MSIM, RN & the State Health Officer: Attachment 2.

Rep M Nelson: Are you familiar with the new HHS guidelines for pain management?

Mylynn Tuftee: No, I am not.

(29:00)
Andrew Frobig~Jail Administrator-Cass County Sheriff's Office: Attachment 3.

(31:00)
Rep Adams: When an individual leaves jail, does the prescription go with them?

Andrew Frobig: Currently, we do send the remaining prescriptions upon release. We do have the ability to retain the excess and dispose of properly.

Vice Chairman Lefor: Aren't you concerned about the addiction to the drugs by inmates?

Andrew Frobig: I am concerned about the person already seeing an occupational doctor. It would be difficult to take the person to the doctor every seven days for a refill.

Chairman Keiser: Do you have a consulting physician on staff?

Andrew Frobig: Yes.

Chairman Keiser: Why couldn't they extend the prescription or write a new script?

Andrew Frobig: I don't see that would be an issue if it's work related.

Chairman Keiser: WSI has two issues with opioids. One is that currently you can be prescribed a lot of opioids and then the injured worker would sell them on the street. Do you have any information on the number in jail that are injured workers who were picked up for selling drugs?

Andrew Frobig: I don't. We don't keep data on the underlying issues.

Chairman Keiser: When they go on the street and sell it, then other therapies don't work very well. Have you seen any of that?

Andrew Frobig: It's not uncommon Our doctors will make a decision to discontinue a treatment.

Opposition:

(37:38)
Dr Michael Booth~MD PhD FACS-On behalf of the ND Medical Association:
Attachment 4 & 5

(47:40)
Rep M Nelson: Have you heard of patients getting their medications cutoff and then turning to street drugs?

Dr Booth: Yes.

Chairman Keiser: Have you heard of patients placed on these drugs and then turning to street drugs?

Dr Booth: Yes. The bigger problem is these drugs historically were used too much in place of proper therapy.

Rep Kasper: What about the effect of long term with low dosage.

Dr Booth: Addiction is more likely with long term usage. Everyone is different.

Rep Kasper: I read a report that physicians in the Burleigh County area were prescribing opioids at a higher rate than around the state. Is it because of WSI in Bismarck?

Dr Booth: During the course of the oil boom we had more injured patients. I am not in a position to provide an analysis. The doctors that specialize in chronic pain are prescribing more. The articles are not really helpful.

Rep Kasper: In your opinion, is WSI easy to deal with as their caseworkers have to approve or disapprove the prescription.

Dr Booth: I handle a half dozen WSI cases per year. I've seen things that I think are intrusive. Their reputation in the medical community is that they are difficult to work with.

Rep Schauer: You said times have changed and we don't need the law. Is it your opinion that we are no longer in an opioid crisis?

Dr Booth: The crisis is not resolved. I think we are starting to win the battle with prescription drugs; but it will really never go away.

Rep Schauer: Who created this problem of the opioid addiction? Who is responsible?

Dr Booth: We all share the responsibility.

Waylon Hedegaard~President of the ND AFL-CIO: Attachment 6.

(59:15)
Vice Chairman Lefor: Is it a requirement to get a refill that you have to physically see the doctor? Or can you call it in?

Waylon Hedegaard: I don't know the answer.

Chairman Keiser: Physicians weren't excited about us engaging in the PDMP (Prescription Drug Monitoring Program). Yet the legislature did get involved. We still don't have a perfect level of reporting. But the PDMP has helped reduce the abuse of opioids in our state. We had so much pushback. Today it is heralded as one of the best things we did.

Waylon Hedegaard: This doesn't seem like the scientific solution that is needed from the medical community. How does the medical representative on the WSI board feel about this?

Chairman Keiser: We met with them and the physician in charge of occupational medicine at Sanford. The member of the board was adamant about the muscular drug. The other physician agreed.

Rep Schauer: I am disappointed with the position the AFL-CIO is taking. This is an effort to help workers.

Waylon Hedegaard: It is difficult to get into a doctor in a rural area. I know the pain people go through when they can't get their prescription filled. I want to weigh those two things together. I want this resolved.

(1:06:15)
Chris Nolden~Private Citizen: In 2007 he had major surgery with multiple pins and was given fentanyl.

You asked how long does it take to be an addict? You get varying answers anywhere from immediately to over a period of time. The longer a person is on the substance the more likely they are to be addicted. My answer is you can you be addicted on the 1st day.

I'm giving you a private citizen's testimony and I'm addicted. (Described about his experience from his injury.) The drugs almost killed me.

Please solve this. But this bill isn't the answer. We have a program that addresses this issue. It is the medical marijuana program.

Rep Ruby: I know what you are going through, but I support the bill because of what you are telling us. Limiting the number of days will help to prevent this addiction. Sounds like that you had a better solution to your pain?

Chris Nolden: I disagree coming at this problem this way. It appeals to the black market. The fentanyl is not coming from just the pharmacies but across the oceans.

Neutral: None

Chairman Keiser: Closed the hearing

Rep Ruby: Moved the amendment submitted by WSI.

Rep Schauer: Seconded the motion

Voice Vote taken. Motion carried.

Rep Kasper: Moved Do Not Pass as amended.

Rep Nelson: Seconded the motion

Rep Ruby: I am not going to support that motion. We need more time to look into the issue. We can't control the black market. We need oversight for these medications.

Rep Nelson: The CDC said their guidelines are not to be used this way. The American Medical Association and Health and Human Services said these guidelines are not to be used this way. The physician and patient have no choice. This doesn't leave the flexibility that a physician needs. If we wanted to be serious about pain management, we would put aqua therapy in every city in the state. This is supposed to be a guideline for physicians not a hard cap put on by the law. You are putting the burden of addiction on pain patients.

Rep Kasper: Everything in this bill is well intentioned, but the people at WSI are not doctors. Giving WSI this type of power when they are not medical practitioners is wrong. We need to kill this bill or amend it to make it a policy not a directive.

Rep Schauer: I will be voting "no" against this. We have to do something if it's truly a problem.

Rep Kasper: It may have been a crisis. Statistics and data show that the medical community is onboard with solving the issue. I still stand by my statement. This bill is going too far.

Chairman Keiser: Anyone with major injuries, these limitations do not apply to in-hospital or emergency room. It says that the physician has to be proactive to extend the limit on the number of days. We don't say you can't do it. You have to have some consultation to control costs. We now have injured workers that will be on opioids for life. WSI approves that and pays for it. I do think there is merit to the bill.

Rep Kasper: I think this will increase costs to the WSI. A 7-day supply with 4 refills will cost more than a 14-day or 30-day supply.

A Roll Call vote was taken: Yes _6_, No __6__, Absent __2__.

Do Not Pass as amended fails due to a tie.

Rep Kasper: I would like to hold the bill until we have full committee.

Chairman Keiser: We will hold the bill.

2019 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1063
2/4/2019
32064

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Ellen LeTang

Explanation or reason for introduction of bill/resolution:

Duration limits for opioid therapy, benzodiazepine & muscle relaxants.

Minutes:

Chairman Keiser: Reopens the hearing on HB 1063. This is the WSI opioid bill. WSI is requesting the limited duration script & dosage. If came out with a 6, 6 tie.

Rep D Ruby: Moves a Do Pass as Amended.

Vice Chairman Lefor: Second.

Chairman Keiser: Further discussion?

Rep P Anderson: I can't support that motion. Eighteen months are some of the changes in therapy. I remember a doctor who said that he was opposed to it to. WSI has a very robust case management. I don't know how many time in past sessions, we do not mandate medical. This is a mandate of medical.

Rep M Nelson: This is roughly based on the CDC guidelines. The CDC has come out & said not to use the guidelines this way. The American Medical Association pasted a resolution saying "don't use the guidelines this way". This is not individualized therapy. This is hard caps in the law on something that's really needs to be individualized. Most people will fit in the guidelines but some people don't. It's really a mistake, this isn't bringing up our pain management of what we know today. I know some people want to do something about the opioid epidemic, but this is the wrong thing. What happens is death rates go up because they are going to street drugs. I'm going to resist the motion.

Rep D Ruby: I don't see this as a hard cap. This is basically requiring that they come back every 30 days. This is good for the person who is on the medication to work towards different medications as their recovery progresses. There is a lot of limit exemptions in this that will not be a requirement. Having that ongoing connections with the physician is a positive thing. I'm going to support.

Chairman Keiser: There are exceptions in the bill. Despite, we do manage health care in workers comp. If we go to 60 days, the physician is required to come back & document why we should be going. Rep M Nelson is correct; we have some people who are addict & they will be addicts forever.

I don't know why these other groups are opposing it. Only thing I can think of is that they don't like legislature dictating anything in medicine. Many states have adopted this. Pull out your Sanford health plan, this is in there for you. I don't understand you, Sanford is doing it for you, not for WSI to manage it.

I'm going to support the motion.

Roll call was taken for a Do Pass as Amended on HB 1063 with 9 yes, 5 no, 0 absent & Vice Chairman Lefor is the carrier.

DA 2/4/19

19.0476.01001
Title.02000

Adopted by the Industry, Business and Labor Committee

February 4, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1063

Page 1, line 2, replace the first comma with "and"

Page 1, line 2, remove ", and muscle relaxants"

Page 1, line 7, replace the first the underscored boldfaced comma with "**and**"

Page 1, line 7, remove "**, and muscle relaxant**"

Page 2, line 6, remove "muscle relaxant therapy beyond a cumulative"

Page 2, remove line 7

Page 2, line 8, replace "a spinal cord injury" with "any combination therapies that include medications from subsections 1 and 2 concurrently"

Renumber accordingly

Date: Jan 22, 2019

Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1063

House Industry, Business and Labor **Committee**

☐ **Subcommittee**

Amendment LC# or Description: WSI Amendment

Recommendation

☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions ☐ Reconsider ☐ _____

Motion Made by Rep Ruby **Seconded By** Rep Schauer

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Rep O'Brien		
Vice Chairman Lefor			Rep Richter		
Rep Bosch			Rep Ruby		
Rep C Johnson			Rep Schauer		
Rep Kasper			Rep Adams		
Rep Laning			Rep P Anderson		
Rep Louser			Rep M Nelson		

Voice Vote

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

Motion Carried

Date: January 22, 2019

Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1063

House Industry, Business and Labor **Committee**

☐ **Subcommittee**

Amendment LC# or Description:

Recommendation

☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions ☐ Reconsider ☐

Motion Made by Rep. Kasper **Seconded By** Rep. Nelson

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		X	Rep O'Brien		X
Vice Chairman Lefor		X	Rep Richter	X	
Rep Bosch	X		Rep Ruby		X
Rep C Johnson	AB		Rep Schauer		X
Rep Kasper	X		Rep Adams	X	
Rep Laning		X	Rep P Anderson	AB	
Rep Louser	X		Rep M Nelson	X	

Total (Yes) 6 No 6

Absent 2

Floor Assignment

Motion failed due to a tie

Date: Feb 4, 2019

Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1063

House Industry, Business and Labor **Committee**

☐ **Subcommittee**

Amendment LC# or Description:

Recommendation

☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions ☐ Reconsider ☐

Motion Made by Rep Ruby **Seconded By** Rep Lefor

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep O'Brien	X	
Vice Chairman Lefor	X		Rep Richter		X
Rep Bosch		X	Rep Ruby	X	
Rep C Johnson	X		Rep Schauer	X	
Rep Kasper	X		Rep Adams		X
Rep Laning	X		Rep P Anderson		X
Rep Louser	X		Rep M Nelson		X

Total (Yes) 9 No 5

Absent 0

Floor Assignment Rep Lefor

REPORT OF STANDING COMMITTEE

HB 1063: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1063 was placed on the Sixth order on the calendar.

Page 1, line 2, replace the first comma with "and"

Page 1, line 2, remove ", and muscle relaxants"

Page 1, line 7, replace the first the underscored boldfaced comma with "**and**"

Page 1, line 7, remove "**, and muscle relaxant**"

Page 2, line 6, remove "muscle relaxant therapy beyond a cumulative"

Page 2, remove line 7

Page 2, line 8, replace "a spinal cord injury" with "any combination therapies that include medications from subsections 1 and 2 concurrently"

Renumber accordingly

2019 TESTIMONY

HB 1063

Attachment 1

2019 House Bill No. 1063
Testimony before the House Industry, Business and Labor Committee
Presented by Tim Wahlin
Workforce Safety and Insurance
January 22, 2019

Mr. Chairman and Members of the Committee:

My name is Tim Wahlin, Chief of Injury Services at WSI. I am here today to provide testimony regarding House Bill No. 1063 and offer amendments. The WSI Board supports this bill.

House Bill 1063 as amended creates controls over two types of medications commonly prescribed to injured employees following a work-related injury. Each of these medications, given long-term, present significant problems including dependency, an increasing likelihood of addiction, increased sedation and respiratory depression especially when used concurrently. After numerous consultations with North Dakota physicians practicing in these areas, the organization proposes an amendment, attached to this testimony, that removes "muscle relaxants" and replaces them with combination therapies of both opioids and benzodiazepines. It was agreed by all parties that muscle relaxants, while only offering relatively short-term effectiveness, present a lower hazard potential in comparisons with the other medications.

Currently the United States is in the midst of an opioid epidemic. Deaths from overdose have exceeded deaths related to traffic accidents. Opioids are not the only medications that are plagued with misuse and abuse and this legislation addresses others as well. Collectively, we are discovering in order to meaningfully address this issue, there needs to be changes.

WSI has taken steps to control and limit the widespread, long-term use of opioids in particular, but this legislation will continue to advance that mission and hopefully limit the devastating consequences dependency brings to our injured employees.

The basis of this legislation was a recommendation from the 2018 Performance Evaluation of North Dakota Workforce Safety & Insurance, performed by Sedgwick. The report recommended opioid caps, not only on the initial fill during the acute phase of treatment, but also on the continued use of opioid medications into the chronic phase of treatment. The Interim Workers' Compensation Review Committee received Sedgwick's report, and directed legislation be drafted.

The first medication the bill addresses is opioid and opioid-like medications. The legislation follows recent medical evidence that challenges the efficacy of long-term opioid use for the treatment of chronic pain and recognizes the increasing likelihood of dependency and the devastating consequences that can entail as well as the alarming rise in opioid-related deaths. The bill will limit the maximum day supply which can be obtained in the first thirty days of therapy to 7 days of medication at a time. This limit will minimize opioid medications in circulation and keep unnecessary prescriptions from being distributed. The seven day fill is also consistent with the fill programs for Medicaid administered by the N.D. Department of Human Services.

In addition, the bill establishes a cap on the strength of the opioids prescribed. Because opioid medications vary widely in potency, in order to accurately compare medications, each has to be compared to an existing drug, in this case morphine. The industry has created measures of "morphine milligram equivalents." Each medication has a conversion factor. As an example, 1mg of oxycodone is equivalent to 1.5mg of morphine. This bill sets a cap for an amount not to exceed

90 milligrams morphine equivalents per day. This level was chosen based upon the Sedgwick evaluation. After reviewing the literature, Sedgwick determined that dosing above 90 mg daily morphine equivalents constitutes high dosages and significantly increases the risk or likelihood of potentially fatal adverse effects.

The proposed legislation specifically exempts certain applications where the risk of overdose or dependency is muted. For example, applications when there is direct supervision of the administration or the likelihood dependency is not an issue, such as end of life care.

The second medication the bill addresses is benzodiazepine therapy extending beyond a cumulative duration of four weeks. Like opioid therapies, benzodiazepine therapies cause mood alteration and can lead to habituation and dependence, and in most circumstances lose effectiveness in a relatively short period of time. Studies have shown that in the United States there is a high likelihood of abuse and misuse potential for these medications. Medical science likewise recognizes the very challenging, and often long-term process of recovery to reverse this course. In rare circumstances, long-term therapies of benzodiazepine for treating certain types of anxiety disorders may be appropriate and this is recognized in the legislation.

The final proposed regulation, as amended, addresses when the two substances are used in combination. When used in combination the chance for a fatal overdose increases dramatically. In combination they will not only sedate but will also depress respiration, an obviously dangerous combination.

Finally, the bill allows for the organization to depart from these limits "upon a showing of medical necessity." This review system is described at NDCC 65-02-20, WSI's managed care statute. This will create flexibility to accommodate cases that present special medical circumstances where the statute would otherwise deny the therapy drug.

Section 2 is the application portion of the bill. The application is different for injured employees receiving any therapy exceeding the therapy limits. The application directs all injured employees be in compliance by July 1, 2020. This will give both providers and injured employees notice and over a year to reach compliance.

This concludes my testimony and I will be happy to answer any questions you may have.

HB 1063

Attachment 1
Jan 22, 2019
Page 3

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1063

Page 1, Line 2, remove the first comma and immediately thereafter insert "and"

Page 1, Line 2, remove the second comma and remove "and muscle relaxants"

Page 1, Line 7, remove the first underscored comma and immediately thereafter insert "and" and remove ", and muscle relaxant"

Page 2, Lines 6 - 8, replace "muscle relaxant therapy beyond a cumulative duration of four weeks, except when approved by the organization for spasticity due to a spinal cord injury" with "any combination therapies which include medications from subsections one and two concurrently"

Renumber accordingly

Attachment 2

NORTH Dakota | Health
Be Legendary.

House Bill 1063
House Industry, Business and Labor Committee
January 22, 2019, 8:00 a.m.

Good morning Chairman Keiser and members of the Committee. My name is Mylynn Tufte, MBA, MSIM, RN, and I am the State Health Officer. As the lead official for the North Dakota Department of Health, I am here to provide testimony in support of House Bill 1063.

The opioid epidemic that has gripped the Nation has been felt here in North Dakota. Many families have been personally impacted by the disease of addiction. In North Dakota, the number of prescription drug overdose deaths has increased from 20 in 2013 to 77 in 2016.[1] Prescription opioid misuse and overdose is an evergrowing concern for ND communities. In the 2017 ND Community Readiness Survey, ND adults reported that they believe prescription drug use among both youth (84.8%) and adults (84.2%) is a problem in their community. [2]

The Centers for Disease Control and Prevention (CDC) published prescribing guidelines that are in line with this legislation and have been adopted by several other states, health plans and pharmacy benefit managers specifically, that opioid therapy not to exceed 90 morphine milligram equivilants of opioid mediation per day or more than a seven-day supply with certain populations being excluded.[3]

While we recognize there have been changes in prescribing practices by our clinicians and an increased awareness by citizens about the dangers associated with prescription drugs, that has not yet resulted in a significant decrease in the number of controlled prescriptions dispensed 2017 (1,299,599) up 10.6% from 2010 (1,175,532).[4]

Passage of HB 1063, can help prevent injured workers from becoming addicted to prescription pain killers or possibly even save a life. For this reason, we ask for your support.

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[1] Center for Disease Control (CDC) Wonder, 2016
[2] https://prevention.nd.gov/files/pdf/DataBook2019.pdf
[3] Dowell D, Haegerich TM, Chou R. CDC Guideline for Prescribing Opioids for Chronic Pain — United States, 2016. MMWR Recomm Rep 2016;65(No. RR-1):1–49. DOI: http://dx.doi.org/10.15585/mmwr.rr6501e1
[4] ND Board of Pharmacy, PDMP Report 2017 Q4

HB 1063

Attachment 3
Page 1

Representative George Keiser, Chair
Representative Mike Lefor, Vice Chair
House Industry, Business, and Labor Committee –Peace Garden Room

Capt. Andrew R. Frobig, Jail Administrator, Cass County Sheriff's Office

Monday January 22, 2019

Support for Senate Bill No. 1063 – Limitations on Opiod and other prescriptions

Chairman Keiser and members of the committee,

I appear before you today as the Administrator of the Cass County Jail, and also on behalf of the ND Correctional Center Adminstrators Association.

I appear today to request your consideration of adding one additional exemption to the in which these proposed limitiations would not apply.

While these types of prescriptions are used sparingly within correctional facilities, all of the drugs covered by this bill have been prescribed to inmates in my own facility, and I am certain at least some of them have been prescribed at most if not all of the correctional facilities throughout the state.

In jails and prisons, prescription medications are required to be safely and securely stored, and must be administered to inmate patients either by a licensed nurse or a properly trained and state certified corrections officer. Some of the medications on this list must also be locked behind additional safeguards and inventoried with a witness whenever they are accessed.

Jails and prisons are fully capable of preventing abuse, and in situations where these types of medications are necessary, and have been prescribed for longer than 7 days, we would very much appreciate the ability to acquire these medications for up to 30 day prescriptions, when warranted and prescribed by a licensed physician.

I ask that you consider adding the jails and prisons to the list of settings where these limitations do not apply.

Thank you for your time and consideration of this request.

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House Industry Business and Labor Committee

House Bill 1063

66th Legislative Assembly of North Dakota

A Michael Booth MD PhD FACS

On behalf of the North Dakota Medical Association

Chairman Keiser and Members of the Committee:

My name is Mike Booth, and I am an actively practicing, board certified cardiovascular and thoracic surgeon in Bismarck. My practice includes the evaluation and management of many patients with chronic pain, particularly back pain, who have been referred for evaluation of possible associated cardiovascular disorders. This experience and training has given me extensive exposure to the clinical problems addressed in this legislation. Additionally, I have personally experienced problems with chronic back pain and have in fact undergone surgery for a herniated disc which has not totally resolved my symptoms.

North Dakota Workforce Safety and Insurance (WSI) dates to 1916. Its purpose is to care for injured workers.[1] It serves as the "exclusive, employer financed, no fault insurance state fund covering workplace injuries, illnesses, and death in North Dakota. WSI is the sole provider and administrator of the workers compensation system[2]." As such, it is a state operated monopoly whose administrators are appointed by the Governor and whose actions are governed by this Legislature, which has the power to enact laws to enforce this monopoly. As such this body needs to exercise great care and judgement in how it chooses to exercise its power to influence the day-to day operation of WSI. Authoring a law to achieve an otherwise well-intentioned goal is not always the best solution.

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[1] North Dakota WSI website 1/20/19

[2] North Dakota WSI website 1/20/19

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This bill seeks to place dosage limits on opioid therapy. It also seeks prohibit authorization for payments for benzodiazepine therapy and muscle relaxant therapy beyond 4 weeks when prescribed for injured workers otherwise covered by WSI. It provides only limited exceptions to this prohibition.

The opioid restrictions are in addition to previous legislation implemented in 2015 governing the ongoing administration of chronic opioid therapy. That action arose out of concerns about the overuse of opiates for the treatment of chronic pain, opiate addiction related to this treatment and outright abuse and diversion of these medicines for illegal consumption. These were all in response to what has become labeled the "opioid crisis" confronting our state and nation. Your NDMA has been very actively involved in its efforts to mitigate this crisis, particularly in the area of prescription drug abuse and the emergency management of opiate overdoses and has been very supportive of these efforts.

The language in this bill places a flat limit of 90 morphine milligram equivalents per day on all WSI prescriptions with some specified exceptions, only three of which (ER care, inpatient care and substance use disorder) are very likely to impact an injured worker. In case you are wondering what a morphine milligram equivalent is, it is a given narcotic's potency relative to morphine. For instance, it takes 6.67 mg of codeine to equal the effect of 1 mg of morphine. For hydromorphone (Dilaudid), 1 mg of Dilaudid is equivalent to 4 mg of morphine. I have attached some other conversions below. As a practical matter, if you are sent home from surgery with a prescription for 4 Tylenol # 3 per day, you would be taking 18 MME's per day. A prescription of 2 mg of Dilauidid 6 time a day would be 48 MME's.

The number 90 MME's was set by the CDC as a suggested upper limit for most pain prescriptions. Above that, the CDC recommends that the dosage should be justified with appropriate documentation. In clinical practice, there are times when more MMEs are very appropriate. Conversely, there are times when it is too much. Cost of these medications does not seem to be a significant impetus for this bill (HB1063), and there is already a formulary mechanism in place to keeps costs down. Our concern with this bill is that it flatly denies payment for higher doses, whether or not the prescriber is able to justify the dosage. We believe this limit is more properly a case management responsibility for WSI, rather than a matter of law imposed by the Legislature.

This bill also prohibits payment for more than 4 weeks of therapy with benzodiazepines and muscle relaxants with very narrow exceptions for each

group. These drugs are interrelated in their chemistry and pharmacology. Indeed, some benzodiazepines are effective as muscle relaxers. Both do have potential for abuse. While all of the muscle relaxers are prescription drugs, not all are scheduled drugs and their effects are variable. More importantly, setting a flat 4 week limit for their use is wrong. As one who suffers from back spasms, particularly after a long day in the operating room, I can tell you that symptoms can linger on for months following an injury, but they fortunately are not normally constant. Again, our position is that their coverage by WSI should be a matter for proper case management rather that legislative prohibition. Until the symptoms produced by the injury are resolved, it is only fair that coverage be continued.

We have made a lot of progress in the past decade in our understanding of the use of drugs that have potential for abuse. Our state does have ready access to data on the use of prescription drugs through improved formulary management and systems such as the Prescription Drug Management Program (PDMP). All physicians are required under the medical practice act to be registered for the PDMP.

Among my other duties, I serve as a member of this state's Medicaid Drug Utilization Review Program. **The implementation and management of these programs by Medicaid has had a dramatic effect in reducing the use of these medications and it has all occurred without any legislation placing limits on the use of the medications or limits on the length of time for which they may be prescribed.**

There is no fiscal note attached to this bill so I believe it is fairly safe to assume the motivation for its introduction was an attempt reduce the utilization of these drugs rather than cost containment. There are better mechanisms already available to WSI to achieve this goal, without needlessly compromising WSI's philosophy of caring for injured workers.

On behalf of the NDMA, I urge you to not pass this measure.

Appendix:

MME Conversion Factors

CMS.gov

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Opioid Oral Morphine Milligram Equivalent (MME) Conversion Factors[i,ii]

Type of Opioid (strength units)	MME Conversion Factor
Buprenorphine film/tablet[iii] (mg)	
Buprenorphine patch[iii] (mcg/hr)	
Buprenorphine film[iii] (mcg)	
Butorphanol (mg)	7
Codeine (mg)	0.15
Dihydrocodeine (mg)	0.25
Fentanyl buccal or SL tablets, or lozenge/troche[iv] (mcg)	0.13
Fentanyl film or oral spray[v] (mcg)	0.18
Fentanyl nasal spray[vi] (mcg)	0.16
Fentanyl patch[vii] (mcg)	7.2
Hydrocodone (mg)	1
Hydromorphone (mg)	4
Levorphanol tartrate (mg)	11
Meperidine hydrochloride (mg)	0.1
Methadone[viii] (mg)	3
>0, <= 20	4
>20, <=40	8
>40, <=60	10
>60	12
Morphine (mg)	1
Opium (mg)	1
Oxycodone (mg)	1.5
Oxymorphone (mg)	3
Pentazocine (mg)	0.37
Tapentadol[ix] (mg)	0.4
Tramadol (mg)	0.1

[i] The MME conversion factor is intended only for analytic purposes where prescription data are used to calculate daily MME. Use the formula: Strength per Unit X (Number of Units/ Days Supply) X MME conversion factor = MME/Day. This value does not constitute clinical guidance or recommendations for converting patients from one form of opioid analgesic to another. Please consult the manufacturer's full prescribing information for such guidance. Use of this file for the purposes of any clinical decision-making warrants caution. This is particularly true with regard to methadone (see viii below).

[ii] National Center for Injury Prevention and Control. CDC compilation of benzodiazepines, muscle relaxants, stimulants, zolpidem, and opioid analgesics with oral morphine milligram equivalent conversion factors, 2017 version. Atlanta, GA: Centers for Disease Control and Prevention; Available at https://www.cdc.gov/drugoverdose/resources/data.html . For more information, send an email to Mbohm@cdc.gov.

[iii] Buprenorphine products are listed but do not have an associated MME conversion factor. These buprenorphine products, as partial opioid agonists, are not expected to be associated with overdose risk in the same dose-dependent manner as doses for

full agonist opioids. The conversion factors for drugs prescribed or provided as part of medication-assisted treatment for opioid use disorder should not be used to benchmark against dosage thresholds meant for opioids prescribed for pain.

[iv] The MME conversion factor for fentanyl buccal tablets, sublingual tablets, and lozenges/troche is 0.13. This conversion factor should be multiplied by the number of micrograms in a given tablet or lozenge/troche.

[v] The MME conversion factor for fentanyl film and oral spray is 0.18. This reflects a 40% greater bioavailability for films compared to lozenges/tablets and 38% greater bioavailability for oral sprays compared to lozenges/tablets.

[vi] The MME conversion factor for fentanyl nasal spray is 0.16, which reflects a 20% greater bioavailability for sprays compared to lozenges/tablets.

[vii] The MME conversion factor for fentanyl patches is based on the assumption that one milligram of parenteral fentanyl is equivalent to 100 milligrams of oral morphine and that one patch delivers the dispensed micrograms per hour over a 24 hour day.
Example: 25 ug/hr fentanyl patch X 24 hrs = 600 ug/day fentanyl = 60 mg/day oral morphine milligram equivalent.
In other words, the conversion factor not accounting for days of use would be 60/25 or 2.4.
However, since the fentanyl patch remains in place for 3 days, we have multiplied the conversion factor by 3 (2.4 X 3 = 7.2). In this example, MME/day for ten 25 µg/hr fentanyl patches dispensed for use over 30 days would work out as follows:
Example: 25 ug/hr fentanyl patch X (10 patches/30 days) X 7.2 = 60 MME/day. Please note that because this allowance has been made based on the typical dosage of one fentanyl patch per 3 days, you should first change all Days Supply in your prescription data to follow this standard, i.e., Days Supply for fentanyl patches= # of patches X 3.

[viii] The CDC MME conversion factor to calculate morphine milligram equivalents of methadone is 3. Calculating MME for methadone in clinical practice often involves a sliding-scale approach whereby the conversion factor increases with increasing dose since the conversion factor of 3 for methadone could underestimate MME for a given patient. CMS uses this conversion factor when analyzing Medicare population opioid use. CMS uses the graduated methadone MME conversion factors to calculate MME within the Overutilization Monitoring System (OMS) for identifying and reporting potential opioid overutilizers. https://www.cdc.gov/drugoverdose/pdf/calculating_total_daily_dose-a.pdf.

[ix] Tapentadol is a mu receptor agonist and norepinephrine reuptake inhibitor. Oral MMEs are based on degree of mu receptor agonist activity, but it is unknown if this drug is associated with overdose in the same dose-dependent manner as observed with medications that are solely mu receptor agonists.

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Testimony for 2019 HB 1063
House Industry Business and Labor Committee
Presented by Waylon Hedegaard
President of the North Dakota AFL-CIO
January 22, 2019

Mr. Chairman, Members of the Committee

My name is Waylon Hedegaard, President of the North Dakota AFL-CIO. I stand against HB 1063.

I understand what this bill is attempting and deeply empathize with its intent. I've seen up close and personal what addiction does to people. Opioid addiction is a growing problem ravaging our state. We all know it.

What I stand against is the fact that that this bill puts the entire burden on the injured worker. They will bear the brunt of this change.

Imagine what an injured worker with shattered leg would have to go through. They would have to find a ride to the doctor every seven days just for pain medication. Maybe this doesn't seem like too much of an imposition for a worker living in Bismarck, but those living in more remote areas face begging for a ride from friends and family every seven days for an agonizing trip not for treatment, not for physical therapy, just to refill a prescription.

Further, it's important to keep in mind that though the opioid issue is huge, WSI is only a very small slice of the total problem, one we are not going to solve until face its true source and that certainly isn't injured workers.

This is a medical issue, and to solve it we are going to have to rely on medically-valid, evidence-based solutions not ad hoc ones. This is a job for the medical community, not WSI, not the legislature.

I urge a no vote.