

Sixty-third  
Legislative Assembly  
of North Dakota

ENGROSSED SENATE BILL NO. 2298

Introduced by

Senators Kilzer, Carlisle

Representatives Hawken, Karls

1 A BILL for an Act to amend and reenact section 65-05-08.3 of the North Dakota Century Code,  
2 relating to workers' compensation consideration of treating doctor's opinions; and to provide for  
3 application.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 65-05-08.3 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **65-05-08.3. Treating doctor's opinion.**

8 1. If the organization does not give an injured employee's treating doctor's opinion  
9 controlling weight, the organization shall establish that the treating doctor's opinion is  
10 not well-supported by medically acceptable clinical and laboratory diagnostic  
11 techniques or is inconsistent with the other substantial evidence in the injured  
12 employee's record based on one or more of the following factors:

- 13 a. The length of the treatment relationship and the frequency of examinations;
- 14 b. The nature and extent of the treatment relationship;
- 15 c. The amount of relevant evidence in support of the opinion;
- 16 d. How consistent the opinion is with the record as a whole;
- 17 e. Appearance of bias;
- 18 f. Whether the doctor specializes in the medical issues related to the opinion; and
- 19 g. Other relevant factors.

20 2. At an administrative hearing, the organization's determination under subsection 1 is  
21 subject to de novo review by the hearing officer.

22 3. This section does not apply to managed care programs under section 65-02-20. For  
23 purposes of this section, the organization shall determine whether a doctor is an  
24 injured employee's treating doctor.

1       **SECTION 2. APPLICATION.** This Act applies to administrative hearings conducted on and  
2 after the effective date of this Act.