

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1434

Introduced by

Representatives Beltz, Bosch, Dobervich, Stemen, Vigesaa, Weisz

Senators Dever, Lee, Sickler

1 A BILL for an Act to amend and reenact section 50-24.8-12 of the North Dakota Century Code,
2 relating to investigative demands and administrative subpoenas of the Medicaid fraud control
3 unit.

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

5 **SECTION 1. AMENDMENT.** Section 50-24.8-12 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **50-24.8-12. ~~Civil investigative~~Investigative demands and administrative subpoenas -**
8 **Failure to comply - Confidentiality.**

- 9 1. If the attorney general, or a designee, has reason to believe a person may be in
10 possession, custody, or control of documentary material or information relevant to an
11 investigation under this chapter, the attorney general, or a designee, may, before
12 commencing a ~~civil~~ proceeding under section 50-24.8-04 issue in writing and cause to
13 be served upon the person, a ~~civil~~an investigative demand or administrative subpoena
14 requiring the person to, under oath:
- 15 a. Produce the documentary material for inspection and copying, including exempt
16 and confidential records;
 - 17 b. Answer in writing written interrogatories with respect to the documentary material
18 or information;
 - 19 c. Give oral testimony concerning the subject matter of the investigation, including
20 any documentary material or information; or
 - 21 d. Furnish any combination of the material, answers, or testimony.
- 22 2. ~~If a civil investigative demand or subpoena is an express demand for product of~~
23 ~~discovery, the attorney general or a designee shall cause to be served, a copy of such~~

1 demand upon the person from which the discovery was obtained and shall notify the
2 person to which such demand is issued of the date on which the copy was served.

3 3. If a person objects to or otherwise fails to comply with a ~~civil~~an investigative demand
4 or administrative subpoena served upon that person under subsection 1, the attorney
5 general may file in the district court a petition for an order to enforce the demand or
6 subpoena. If the court finds the demand or subpoena is proper, the court shall order
7 the person to comply with the demand or subpoena and may grant such injunctive or
8 other relief as may be required until the person complies with the demand or
9 subpoena. Notice of hearing on the petition and a copy of the petition must be served
10 upon the person that may appear in opposition to the petition. If the attorney general
11 prevails in an action brought under this subsection, the court shall award to the
12 attorney general reasonable attorney's fees, costs, and expenses incurred in bringing
13 the action.

14 4.3. Any testimony taken or material produced under this section must be kept confidential
15 by the attorney general before bringing an action against a person under this chapter
16 for the violation under investigation, unless ~~confidentiality~~;

17 a. Confidentiality is waived by the person being investigated and the person that
18 testified, answered interrogatories, or produced material; ~~or disclosure~~;

19 b. Disclosure is authorized by the court;

20 c. Disclosure is made to other law enforcement agencies; or

21 d. Disclosure is made to non-law enforcement investigative partners with which the
22 attorney general deems necessary to collaborate to complete the investigation.

23 5. ~~Information obtained by the attorney general or designee may be shared with a person~~
24 ~~that initiated the action if the attorney general or designee determine it is necessary as~~
25 ~~part of any investigation under this chapter and the person agrees to comply with the~~
26 ~~confidentiality provisions provided in subsection 4, and unless otherwise provided by~~
27 ~~state or federal law.~~

28 6.4. ~~A person is not subject to civil or criminal liability as a result of providing written~~
29 ~~answers, testimony, or documentary material to the attorney general under this~~
30 ~~section.~~ Disclosure pursuant to this section is not a violation of section 12.1-13-01.

- 1 5. An active investigation record of the Medicaid fraud control unit is an exempt record
- 2 unless the investigation is closed and not referred for further investigation or
- 3 adjudication.