

**FIRST ENGROSSMENT  
with Conference Committee Amendments  
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.

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

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

6 **65-05-08.3. Treating doctor's opinion.**

- 7 1. ~~If the organization does not give~~A presumption may not be established in favor of an  
8 ~~injured employee's treating doctor's opinion controlling weight, the organization shall~~  
9 ~~establish that the treating doctor's opinion is not well-supported by medically~~  
10 ~~acceptable clinical and laboratory diagnostic techniques or is inconsistent with the~~  
11 ~~other substantial evidence in the injured employee's record based on one or more of.~~  
12 The organization shall resolve conflicting medical opinions and in doing so the  
13 organization may consider the following factors:  
14 a. The length of the treatment relationship and the frequency of examinations;  
15 b. The nature and extent of the treatment relationship;  
16 c. The amount of relevant evidence in support of the opinion;  
17 d. How consistent the opinion is with the record as a whole;  
18 e. Appearance of bias;  
19 f. Whether the doctor specializes in the medical issues related to the opinion; and  
20 g. Other relevant factors.  
21 2. This section does not apply to managed care programs under section 65-02-20. For  
22 purposes of this section, the organization shall determine whether a doctor is an  
23 injured employee's treating doctor.