

# North Dakota Opioid Safety Policy Scan



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## Table of Contents

Introduction .....	3
Methods .....	3
Results .....	6
1. Opioid/ Prescription Drug Task Force- .....	7
2. Pill mills .....	10
3. PDMP .....	11
4. Opioid Prescribing Regulation Guidelines and Limits .....	13
5. Informed Consent .....	15
6. Non-Opioid Chronic Pain Management .....	16
7. Referral and Access to Treatment.....	17
8. Prevention and Education Indicators .....	19
9. Continuing Medical Education Requirement .....	21
10. Naloxone Access.....	23
11. Good Samaritan Law.....	25
12. Opioid Use Data Collection .....	26
13. NAS reporting.....	28
14. Medicaid expansion .....	30
15. Medicaid utilization .....	33
Discussion.....	34
Recommendations .....	39
Limitations.....	40
Conclusion.....	40
References .....	41
Appendix A .....	42
Appendix B.....	43

## **Introduction**

The opioid epidemic has proven to be an intransigent public health crisis in the United States, posing significant challenges to communities nationwide, including in North Dakota. Despite a 34% decline in opioid prescriptions between 2006 and 2020 in North Dakota,<sup>1</sup> the state continues to witness a worsening trend of opioid-related deaths, highlighting the urgency for a comprehensive and evidence-based approach to address this pressing issue. This epidemic has taken a toll on individuals and on society as a whole. In fact, it has impacted economic growth through the expense of opioid-related harms, as well as the challenge of maintaining a healthy workforce.

While individual patient care is essential, it alone is insufficient to improve population health outcomes; policy and system changes are necessary as well. This research report presents an evaluation of North Dakota's opioid-related policies based on the best practice framework developed by Shaver et al.<sup>2</sup> By analyzing the state's policy environment and identifying areas of strength and areas of needed improvement, this study is able to make evidence-based recommendations for enhancing the response to the opioid crisis in North Dakota. Through an in-depth exploration of policy domains and collaboration among stakeholders, it is possible to bring about transformative changes that positively impact the lives of individuals and communities affected by opioid misuse and associated harms.

This report uses an approach called legal epidemiology, which analyzes the role of laws and policies as factors in the cause, distribution, and prevention of disease and injury. It uses scientific rigor to translate complex laws and policies into data that can be used to evaluate how laws affect population health. The intention is to establish, promulgate and implement laws known to improve population health, and to remove or modify laws known to do the opposite.

## **Methods**

A systematic approach was employed to evaluate North Dakota's opioid-related policy environment based on the model proposed by Shaver et al.<sup>2</sup> The following methods were employed to gather data and assess the policies:

- a. Data Collection:

- Online Searches: Extensive online searches were conducted to identify relevant policies, laws, and initiatives related to opioid misuse, addiction, and harm reduction in North Dakota. Official government websites, healthcare databases, and reputable sources were utilized for data collection.
- In-depth Interviews: Key stakeholders from North Dakota, including legislators, public health officials, healthcare providers, addiction specialists, and community representatives, were interviewed to gather insights into the implementation and impact of opioid-related policies. These interviews provided valuable perspectives on the ground-level realities and challenges.
- b. Policy and Law Review: The collected policies, laws, and regulations pertaining to opioids in North Dakota were meticulously reviewed. This involved analyzing the content, scope, and objectives of each policy to assess their relevance and effectiveness in addressing opioid-related harms. The implementation status of these policies was also examined to evaluate the extent to which they have been put into practice and their impact on the ground.
- c. Scoring and Evaluation: An expert panel consisting of individuals with expertise in public health, addiction medicine, policy analysis, and healthcare evaluation was formed. The expert panel reviewed the collected data, including policies, laws, and interview findings, to assess their alignment with the six domains identified by Shaver et al as shown in Table 1. Each domain was scored on a scale from 1 to 5, with scores less than 3 representing inadequate performance, scores from 3 to 3.9 indicating adequate performance, and from 4 to 5 signifying exemplary performance as shown in Table 2.
- d. Analysis and Interpretation: The scores assigned to each domain were analyzed to identify areas of strength and areas that require improvement in North Dakota's opioid-related policies. The policies within each domain were further examined to identify specific variables that contributed to the overall score and to determine whether they were categorized as exemplary, adequate, or inadequate (Tables 1 and 2).
- e. Recommendations: Based on the findings and analysis, evidence-based recommendations were formulated to address the identified areas of needed improvement and enhance the policy, systems, and environment approach to opioid mitigation in North Dakota.

By employing these research methods, the study aimed to provide a comprehensive assessment of North Dakota's opioid-related policies and generate actionable insights to guide future policy decisions and interventions.

Table 1: Best Practice Domains and Variables

Best practice domains	Variables
Opioid Prescribing Regulation, Guidelines, Limits, and Monitoring	<p><i>Opioid/ Prescription Drug Task Force:</i> Creation of a state-level opioid/prescription drug task force.</p> <p><i>Pill Mills:</i> Opioid misuse, abuse, and overdose laws, policies, or initiatives targeting pain management clinics with minimal medical oversight whose providers excessively prescribe opioids and other controlled substances.</p> <p><i>Prescription Drug Monitoring Program (PDMP):</i> Includes operational PDMP, laws in place to require use of state PDMP, and laws in place allowing delegates to use the PDMP.</p>
Medical and Behavioral Health Practice	<p><i>Opioid Prescription Regulation, Guidelines and Limits:</i> Includes prescribing requirements enforceable by law, opioid prescribing guidelines, and prescribing guidelines developed by rule-making or quasi-regulatory authority. Limits are laws restricting the initial dosage or prescriptions thereafter.</p> <p><i>Informed Consent:</i> Informed consent agreement laws, recommendations, or guidelines: obtaining from a patient their acknowledgement of the potential risks and benefits associated with taking opioid medications and the responsibility of the patient when taking opioid prescription medications.</p>
Prevention and Education Indicators	<p><i>Nonopioid Chronic Pain Management:</i> Laws or guidelines in place which encourage the use of non—opioid alternatives for the treatment of chronic pain.</p> <p><i>Referral and Access to Treatment:</i> Laws, policies, guidelines, or initiatives specific to improve referral and access to pain specialists and, or OUD abuse treatment. Specific guidance on providing Screening, Brief Intervention, and Referral to Treatment (SBIRT) and Medication Assisted Treatment (MAT).</p> <p><i>Prevention and Education Indicators:</i> State funding or requirements regarding substance abuse prevention programs, including OUD education.</p> <p><i>Continuing Medical Education Requirements and Health Professions Education:</i> Laws in place that require all medical providers to complete continuing education coursework related to opioid prescribing and chronic pain management. Laws in place that require opioid abuse prevention curriculum be developed and incorporated into academic programs for medical, dental, nursing, and other health professions students.</p>
Emergency Response Statutes	<p><i>Naloxone Access:</i> Laws in place to expand naloxone access.</p> <p><i>Good Samaritan Laws:</i> Laws providing protection from arrest or prosecution for individuals who report an overdose in good faith: immunity (arrest, charge, prosecution) for controlled substance possession, paraphernalia, and other violations (protective or restraining order; pretrial, probation, or parole conditions). Other legal protections may include considering reporting as a mitigating factor and if reporting could result in civil forfeiture.</p>
Opioid Use Data Collection	<p><i>Opioid Use Data Collection:</i> Laws or regulations in place to require the reporting of drug overdose and death.</p> <p><i>Neonatal Abstinence Syndrome (NAS) Reporting:</i> Laws in place requiring the reporting of NAS.</p>
Medicaid Expansion and Utilization	<p><i>Medicaid Expansion:</i> State participation in expansion of Medicaid.</p> <p><i>Medicaid Utilization:</i> Comprehensive Medicaid utilization for OUD treatment.</p>

Table 2: OUD Best Practice Classification

Classification	Score	Definition
Exemplary	4-5	Comprehensive state-level policies model best practice for reducing demand for and access to opioids; provide access to OUD treatment, medical care, and basic services for reducing harm; support prevention programs and continuing medical education for healthcare providers; and increased access to healthcare through Medicaid expansion.
Adequate	3-3.9	State-level policies address reducing demand for and access to opioids and provide access to OUD treatment, medical care, and basic services for reducing harm.
Inadequate	<3	State-level policies do not thoroughly address reducing demand for and access to opioids and provide access to OUD treatment, medical care, and basic services for reducing harm.

## Results

On the whole, North Dakota opioid-related policies were found to be in close alignment with the public health best practice standards (Table 3). The policy scores ranged from 2.96-3.94 (Table 3). Those found to be in alignment with essential public health best practice standards were: Emergency response statutes (3.94), Opioid prescribing regulation (3.91), Prevention and education indicators (3.59), Opioid use data collection (3.24), and Medicaid expansion and utilization (3.32). The medical and behavioral health domain was found to be inadequate and not up to best practice (2.96).

Table 3: Best Practice Domain Scores

Best Practice Domains	Scores
Emergency Response Statutes	3.94
Opioid Prescribing Regulation, Limits and Monitoring	3.91
Prevention and Education Indicators	3.59
Medicaid Expansion and Utilization	3.32
Opioid Use data collection	3.24
Medical and Behavioral Health Practice	2.96

Each of the six best practice domains is comprised of several variables, which allowed for more specific evaluation of areas of strength and weakness (Figure 1). Variables with exemplary scores (those above the upper red line), beginning with the highest scoring variable, were access to Naloxone (4.5), regulations on opioid prescriptions (4.4), PDMP regulations (4.3), and prevention programs (4.1). These variables demonstrated strong performance and effectiveness in addressing the opioid crisis (Figure 1).

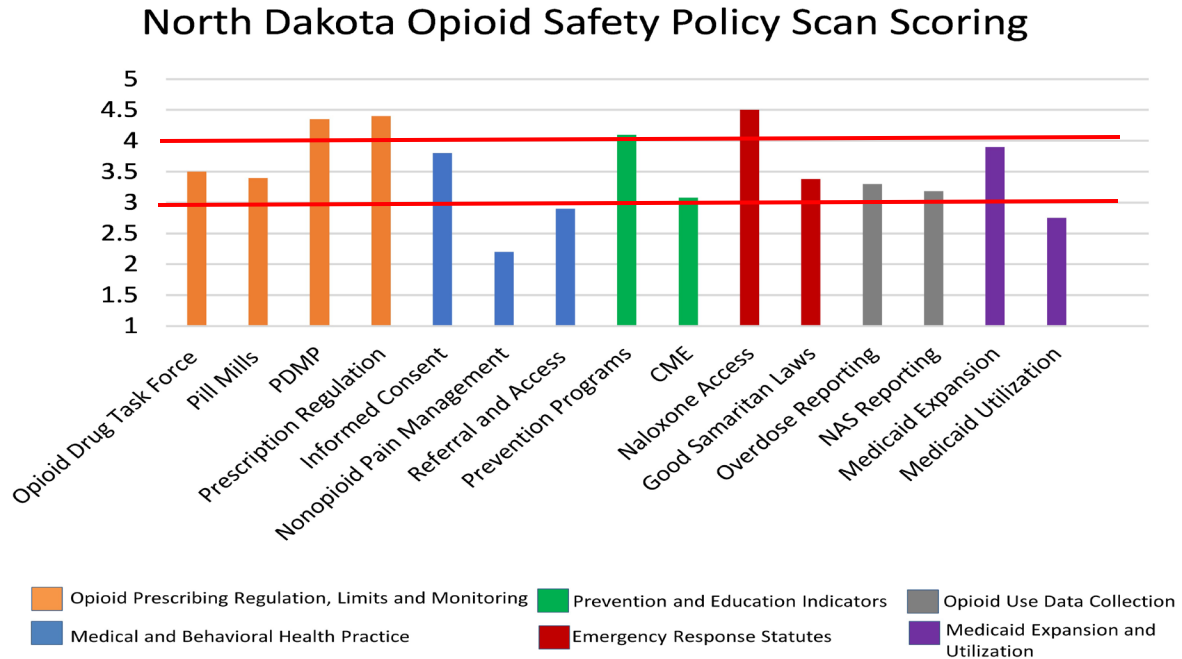


Figure 1: North Dakota Opioid Safety Policy Scan Scoring

Variables with adequate scores (those above the two red lines) included Medicaid expansion (3.9), informed consent for opioid treatment (3.8), Good Samaritan laws (3.3), regulation of pill mills (3.4), reporting of overdose cases (3.3), Neonatal Abstinence Syndrome (NAS) reporting (3.18), the presence of an opioid task force (3.5), and continuing medical education on opioids (3.08). While these variables show room for improvement, they have contributed to addressing the opioid crisis to some extent (Figure 1).

Inadequate variables identified (those below the lower red line) were non-opioid chronic pain management (2.2), referral and access to treatment for opioid addiction (2.9), and Medicaid utilization (2.75). These areas require attention and improvement to enhance the effectiveness of interventions and support for individuals affected by opioid-associated harm.

These results underscore the strengths and weaknesses of North Dakota's opioid-related policies, guiding future interventions and policy decisions. Following each individual variable will be discussed in detail.

#### 1. Opioid/ Prescription Drug Task Force-

In North Dakota, the Opioid/Prescription Drug Task Force (also called the Reducing Pharmaceutical Narcotics Task Force), was created in 2015 to combat the growing opioid problem. It consists of a broad coalition representing



various sectors, including law enforcement officers (LEO), healthcare professionals, legislators, pharmacists, and the Department of Human Services. Since its inception, the task force has played a crucial role in addressing prescription drug and opioid abuse through collaborative efforts and targeted campaigns. Particularly prior to the State Targeted Response (STR) and State Opioid Response (SOR) federal opioid funding in 2016, the task force did substantial work to raise awareness of opioid risk and promote preventive measures.

One notable initiative is the "Stop Overdose" campaign launched in 2016 by the North Dakota Department of Human Services' Behavioral Health Division in collaboration with the Opioid/Prescription Drug Task Force.<sup>3</sup> This statewide campaign aims to support community efforts in addressing prescription drug and opioid abuse. The campaign includes hosting community forums, expanding and promoting community take-back locations for safe disposal of unused medications, encouraging local pharmacists to become trained in prescribing naloxone, and sharing resources and information on overdose prevention.

The Opioid/Prescription Drug Task Force, is comprised of more than 40 public and private entities, including medical professionals, law enforcement agencies, treatment providers, educators, policymakers, and various community collaborators. From its inception in 2011 to at least 2016, the task force convened quarterly, with a primary emphasis on expanding the number of Take-Back Program sites, enhancing the accessibility of the Prescription Drug Monitoring Program, and providing backing for legislative initiatives like the Good Samaritan Bill and the dissemination of naloxone rescue kits.<sup>4</sup> The Mayor's Blue Ribbon Commission in the Fargo metro area in 2017, and other similar community-based groups also filled a big gap in meeting this need. As a complement to these efforts, in 2021 Essentia Health in Fargo created the monthly Red River Recovery Initiative Meeting to bring together healthcare, law enforcement and local public health to address opioid overdoses and overdose deaths in the community. The Opioid/Prescription Drug Task Force is meeting.

For the Opioid/Prescription Drug Task Force in North Dakota, below are some recommendations to further enhance their efforts:

1. Strengthen mandatory participation: Consider exploring mechanisms to make participation in the task force mandatory for relevant stakeholders. This could be achieved through legislation or regulations that require certain sectors, such as healthcare professionals and law enforcement officers, to actively participate in the

task force. Mandatory participation can help ensure consistent engagement and commitment from all key sectors.

2. **Secure sustainable funding:** Seek long-term and sustainable funding sources to support the initiatives and activities of the task force. Adequate funding can enable the implementation of comprehensive programs, training opportunities, awareness campaigns, and treatment and recovery services.
3. **Enhance treatment and recovery services:** Increase the availability and accessibility of evidence-based treatment options for individuals with opioid use disorder. This includes expanding the capacity of treatment centers, promoting medication-assisted treatment (MAT), and supporting initiatives that reduce barriers to accessing care, such as transportation and insurance coverage. Develop partnerships with healthcare providers and community organizations to ensure a continuum of care.
4. **Advocate for policy changes:** Collaborate with legislators and policymakers to advocate for policies that support prevention, treatment, and recovery efforts. This may include advocating for increased funding for addiction services, improved insurance coverage for substance use disorder treatment, and legislation that addresses the root causes of the opioid crisis. Additionally, consider supporting policies that promote harm reduction strategies, such as needle exchange programs and safe injection sites.
5. **Evaluate and monitor progress:** Implement a system for regular evaluation and monitoring of the task force's activities, initiatives, and outcomes. Collect feedback from stakeholders and the community to assess the effectiveness of interventions and identify areas for improvement.
6. **Provide state-level coordination:** Local public health units, utilizing STR/SOR funding, have become de facto opioid task force entities, under the coordination of the North Dakota Department of Human Services. The integration of their work, with other key stakeholders requires greater coordination.

The task force was critical in responding to the opioid crisis in North Dakota when it first became evident in 2011, and for the ensuing five years. But once the initial work of public awareness of the crisis, reducing opioid prescribing, and wide distribution of naloxone, was accomplished, the task force seems to have receded in influence. By implementing these suggestions, the task force can continue to make significant strides in combating the opioid crisis and improving the overall health and well-being of communities across the state.

## **2. Pill mills**

Pill mills, referring to medical practices or clinics that prescribe and dispense excessive quantities of prescription medications, particularly opioids, without legitimate medical need, have been a significant concern in the context of the opioid epidemic. In North Dakota, significant regulatory measures have been put in place to prevent the operation of pill mills and mitigate the risks associated with excessive prescription medication dispensing. One key measure is the establishment of limits imposed by pharmaceutical wholesalers on the quantity of doses that can be purchased. These limits serve to restrict the availability of large quantities of prescription medications, thereby reducing the potential for misuse or diversion. As a result of proactive regulatory actions, any pill mills that may have been operating have been identified and effectively shut down.

North Dakota has made commendable progress in addressing the issue of pill mills through regulatory measures and swift actions to shut down identified facilities. Continued efforts are necessary to maintain this positive trajectory. By implementing the recommendations mentioned below, North Dakota can further strengthen its pill mill prevention strategies, protect its population from unnecessary exposure to opioids, and contribute to the overall fight against the opioid epidemic.

1. **Continued Monitoring and Vigilance:** Maintain a robust monitoring system to identify any potential resurgence of pill mills or high-volume opioid prescribing practices. This involves close collaboration between regulatory bodies, law enforcement agencies, healthcare professionals, and community organizations to share information and promptly address any suspicious activities.
2. **Enhanced Provider Education and Training:** Continue to prioritize education and training initiatives targeting healthcare providers, emphasizing responsible prescribing practices and the appropriate use of opioids. Foster partnerships with medical schools, professional associations, and healthcare institutions to ensure that providers receive comprehensive training on pain management, alternative therapies, and identification of potential signs of illicit prescribing practices.
3. **Strengthen Regulatory Measures:** Evaluate existing regulatory measures and consider additional strategies to strengthen controls on prescription medication dispensing, such as monitoring high volume prescribers, and high dispensing pharmacies. This may include exploring measures such as strict licensing requirements, and improved reporting systems for suspicious prescribing patterns.

4. Public Awareness and Patient Education: Expand public awareness campaigns to educate patients and community organizations, such as faith communities, athletics teams, university dormitories, senior centers, and others, about the risks associated with prescription medications and the importance of responsible use.

### **3. Prescription Drug Monitoring Program**

The North Dakota PDMP serves as a monitoring system for tracking the prescribing and dispensing of controlled substances throughout the state. The implementation of the North Dakota Prescription Drug Monitoring Program (PDMP)<sup>4</sup> in December 2005 was a crucial step in addressing the misuse, abuse, and unauthorized distribution of controlled substances. By capturing data from practitioners and pharmacies, the program enables comprehensive monitoring of the distribution of controlled substances, ensuring greater oversight and control. The PDMP advisory committee meets quarterly, providing a platform for collaboration and updates regarding PDMP operations. Several key findings emerged from the evaluation of the PDMP.

Pharmacists are expected to register with the PDMP, and failure to comply may result in referral to the licensing board, ensuring participation and accountability. Providers are also expected to register with the PDMP. The NDMA actively supports the Prescription Drug Monitoring Program (PDMP) by participating in its advisory group, advocating for legislation to enhance the PDMP, and encouraging its members to follow the rules set by the Board of Medicine (BOM) for its utilization.

Practitioners must request PDMP reports for patients prescribed reported drugs for more than twelve weeks and at least semiannually thereafter, enhancing monitoring for potential misuse or diversion. The threshold alert level has been reduced to three prescribers or dispensers within a three-month period, providing timely alerts to prescribers about patients who may be receiving excessive prescriptions. Prescribers must document the receipt and assessment of PDMP reports, facilitating informed decision-making in prescribing controlled substances. Although not mandatory, prescribers are encouraged to access the PDMP if they suspect a patient may be abusing or diverting prescribed medications, promoting proactive intervention. According to North Dakota PDMP registry, the number of pharmacists active accounts declined by 20.6 % from 2019 Q3 to 2022 Q4 while the number of prescribers has increased by 39.5 % from 2019 Q3 to 2022 Q4.<sup>4</sup>

It is important to note that North Dakota has enacted legislation<sup>5</sup> providing immunity to prescribers and dispensers if an individual experiences harm as a result of a medication, but the prescriber or dispenser had not consulted the PDMP in making patient care decisions.

Overall, the North Dakota Prescription Drug Monitoring Program (PDMP) has been instrumental in enhancing the oversight and control of controlled substance prescribing in the state. By capturing comprehensive prescription data, requiring practitioner registration, and facilitating access to PDMP reports, the program supports responsible prescribing practices and aids in identifying potential cases of misuse, abuse, or diversion. By implementing the recommendations, below North Dakota can further strengthen the PDMP's impact in curbing the opioid epidemic.

1. **Mandatory PDMP Use:** Join 28 other states in the country, including Wisconsin, by establishing legislation to make PDMP use mandatory for all prescribers and dispensers prior to prescribing or dispensing controlled substances. Mandating PDMP use would ensure comprehensive monitoring of patients' prescription history and enable early identification of potential misuse or diversion.
2. **Integration of the PDMP software with Electronic Health Records (EHR):** Investigate possibilities for integrating the PDMP with electronic health record (EHR) systems used by healthcare providers. This integration would enable convenient access to PDMP data within the EHR system, eliminating the need for manual data entry and simplifying the workflow for healthcare professionals. Such integrations would enhance patient care and could include co-prescribing of opioids and benzodiazepines as an alert feature, as they are the highest risk for accidental overdose.
3. **Enhance Data Sharing and Interoperability:** Collaborate with neighboring states and regional PDMPs to improve data sharing and interoperability. Enhanced data sharing would enable healthcare professionals to access prescription data from other states, helping to identify patients who may be crossing state lines to obtain excessive prescriptions.
4. **Provider Education and Training:** Continue to invest in mandatory education and training initiatives for prescribers, dispensers and pharmacists to increase utilization of the PDMP. Training programs should emphasize the importance of using PDMP reports to inform clinical decision-making and identify potential cases of misuse or diversion.

#### **4. Opioid Prescribing Regulation Guidelines and Limits**

Opioid prescribing regulation is a critical component of addressing the opioid crisis and ensuring the safe and responsible use of these medications. The evaluation of opioid prescribing regulation in North Dakota revealed the following key findings:

The DEA plays a crucial role in controlling the availability of opioids by monitoring the manufacturing, sales to wholesalers and retailers, and prescription compliance.

Guidelines recommend limiting the initial dosage and subsequent prescriptions of opioids, although healthcare providers may exercise judgment based on individual patient needs. It was reported that emergency departments in North Dakota typically adhere to prescribing limits, with opioids not exceeding 100mg/day or 50 MME/day, ensuring high compliance rates in emergency opioid prescribing. Opioids are not prescribed for migraines, dental pain, or chronic pain treatment refills, aligning with efforts to explore alternative treatments for these conditions. Toradol, a non-opioid nonsteroidal anti-inflammatory drug is frequently used in emergency departments.

Telemedicine prescriptions are allowed for FDA-approved medication-assisted treatment (MAT) for opioid use disorder, expanding access to treatment options through remote healthcare services.<sup>6</sup> Licensees who prescribe controlled substances, including opioids, are required to comply with both state and federal laws and participate in the North Dakota Prescription Drug Monitoring Program (PDMP).

According to ND Century Code 19-02.1-15, habit-forming drugs can only be dispensed with a valid prescription from a practitioner.<sup>7</sup> Refills for these prescriptions are not allowed after one year from the initial issuance, although a new prescription can be provided for the same medication. In cases where oral prescriptions are given, they must be promptly documented in writing and filed by the pharmacist.

A resolution passed by the North Dakota Medical Association (NDMA) emphasizes that patients with co-occurring pain and opioid use disorder (OUD) should be treated as concurrent illness deserving full care, and not limiting pain management until the OUD is managed. These patients have the entitlement to receive proper evaluation and treatment for pain, regardless of their history of substance abuse. It highlights the importance of ensuring that individuals with a substance abuse background are not deprived of access to effective methods of pain management, and that non-opioid pain alternatives be sought and implemented.

The opioid prescribing regulation guidelines and limits in North Dakota reflect a comprehensive approach to combat the opioid crisis and promote responsible prescribing practices. With the involvement of the DEA in monitoring opioid availability, adherence to prescribing limits in emergency departments, restrictions on opioid use for specific conditions, and requirements for compliance with state and federal laws and participation in the PDMP, the state is taking significant steps to mitigate the risks associated with opioid misuse and diversion. Furthermore, the recognition of patient rights to proper pain evaluation and treatment, regardless of their substance abuse history, underscores the importance of ensuring access to effective pain management for all individuals. Continued evaluation and refinement of these regulations will be crucial in addressing the ongoing challenges of the opioid crisis and protecting the well-being of North Dakota residents. Some of the recommendations to further enhance their efforts are mentioned below.

1. **Education and Training:** Implement mandatory education programs for healthcare providers and pharmacists regarding safe and responsible opioid prescribing practices, as is required in other states, such as West Virginia. This should include updated information on pain management alternatives, the risks associated with opioids, proper dosage calculations, identification of at-risk patients, and strategies for managing opioid use disorder.
2. **Prescriber Monitoring and Support:** Establish a system to monitor prescribing practices and provide support to healthcare providers. This can include regular review of prescribing patterns, feedback on compliance with guidelines, and access to consultation services or expert advice on complex cases or alternative treatment options.
3. **Public Awareness Campaigns:** Launch public awareness campaigns to educate the general population about the risks of opioid misuse and the availability of alternative pain management options. These campaigns can emphasize that conversations about opioid use with their prescribers and pharmacists is standard of practice, including conversations about proper disposal of unused opioids, and the signs of opioid addiction.
4. **Expansion of Treatment Services:** Increase the availability and accessibility of evidence-based treatment services for individuals with opioid use disorder.

## 5. Informed Consent

Informed consent is an essential aspect of healthcare practice, ensuring that patients have a clear understanding of their medical treatments, including the risks and benefits involved. The evaluation of informed consent practices in North Dakota yielded the following key findings:

**Verbal Communication:** Healthcare providers inform patients verbally about the addictive nature of certain drugs, ensuring they have knowledge of the risks associated with those medications.

**Absence of Mandatory Signature:** Currently, there is no mandatory requirement for patients to provide a signature to acknowledge that they have been informed about the addictive nature of opioids, and that they consent to using them.

**Patient Identification for Certain Medications:** Patients are required to present their identification (ID) when obtaining controlled substances. This identification requirement aims to ensure appropriate and responsible dispensing of medications, helping to prevent misuse and diversion. Pharmacies in North Dakota may scan patient IDs and store the associated information in their computer systems. This practice is implemented to maintain accurate records, verify patient identity, and prevent fraudulent activities related to medication dispensing. The storage of patient information must comply with applicable privacy and security regulations to protect patient confidentiality.

Here are some of the recommendations below to further enhance the activities.

1. Implement a standardized informed consent process that includes a formal signature from patients, acknowledging their understanding of the risks and benefits of their medical treatments. This will provide a clear record of informed consent and enhance patient autonomy.
2. Develop guidelines for healthcare providers to ensure consistent and comprehensive verbal communication of the addictive nature of certain medications. These guidelines should address different patient populations and medication scenarios, promoting patient understanding and informed decision-making.
3. Strengthen the enforcement of patient identification requirements for obtaining medications. This will help prevent unauthorized access and reduce the risk of medication misuse and diversion.



4. Disallow cash payment for opioid medications, which is known to be associated with a higher intensity of opioid prescriptions and with rates of drug overdose deaths across all age groups.<sup>8</sup>

By implementing these recommendations, North Dakota can enhance its informed consent practices, promote patient understanding and involvement in their healthcare decisions, and safeguard against medication misuse and fraudulent activities.

## **6. Non-Opioid Chronic Pain Management**

The evaluation of non-opioid chronic pain management practices in North Dakota yielded the following key findings:

**Absence of Mandatory Non-Opioid First Rule:** Although this is part of the CDC Guidelines for Prescribing Opioids for Chronic Pain;<sup>9</sup> currently, there is no specific rule or guideline mandating that prescribers must first “ensure that patients are aware of alternatives to opioids before starting or continuing opioid therapy.” However, it was found that healthcare providers strive to explore and utilize non-opioid treatment options as a first-line approach whenever possible.

**Emphasis on Non-Opioid Alternatives:** Healthcare providers in North Dakota seek and incorporate non-opioid alternatives in their chronic pain management strategies. The choice of non-opioid treatments is individualized based on patient needs, preferences, and the underlying cause of chronic pain. Federal SOR funding can be used to explore and expand non-opioid analgesic best practices, but to date, none has been used for this purpose.

**Patient-Centered Care:** Non-opioid chronic pain management practices prioritize patient-centered care, focusing on individual patient needs, goals, and preferences. Healthcare providers engage in shared decision-making with patients, discussing the potential benefits and risks of non-opioid treatments, as well as setting realistic expectations regarding pain control and functional improvement.

The initiatives below can lead to enhanced patient well-being, increased quality of life, and a decreased likelihood of opioid-related harm.

1. Establish clear guidelines or recommendations that promote the use of non-opioid alternatives as a first-line approach for chronic pain management. This will encourage healthcare providers to explore and utilize

non-opioid treatment options before considering opioids, emphasizing the importance of safer and effective alternatives.

2. Allocate federal SOR funding to explore and expand non-opioid analgesic best practices.
3. Foster patient-centered care in non-opioid chronic pain management, promoting shared decision-making between healthcare providers and patients. Emphasize the importance of discussing the potential benefits and risks of non-opioid treatments, setting realistic expectations, and considering individual patient needs, goals, and preferences.

## **7. Referral and Access to Treatment**

Efficient referral and access to treatment for pain specialists and individuals with opioid use disorder (OUD) are crucial for effective management and recovery. The evaluation of referral and access to treatment practices in North Dakota yielded the following key findings:

Referral to treatment at the Heartview Foundation in Bismarck, ND is available 24 hours a day seven days a week. Such open access is not commonly found around the state, as a result of an insufficient number of treatment facilities and behavioral health providers.

Buprenorphine Clinic: A buprenorphine clinic was established in Carrington with its own electronic charting and billing system. The clinic accepted insurance plans such as Blue Cross Blue Shield, Sanford Health, and North Dakota Medicaid, and it created a dedicated environment where patients felt more comfortable discussing their opioid abuse disorder openly. It was discontinued after about a year, as it faced challenges related to patient volume and sustainability, and the work was transferred to the local hospital.

Transportation vouchers: A state program providing travel vouchers to reduce cost burden on patients needing to travel long distances for treatment has been well received, and it was expanded in the 2023 legislature.

Emergency Department Referrals: In emergency departments, individuals with acute opioid-related cases are treated with buprenorphine and then referred to appropriate providers for ongoing care and treatment.

Licensing and Certification: Opioid treatment programs in North Dakota require a license from the state's Department of Health, certification from the United States Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA), and registration from the United States Department

of Justice Drug Enforcement Administration (DEA). Separate licenses are needed for each location where an opioid treatment program operates.<sup>10</sup> The lifting of the X-waver previously required to permit outpatient use of buprenorphine for OUD should expand prescribing of this treatment modality.

**Standards and Monitoring:** Rules and regulations must be adopted to ensure proper licensing and monitoring of opioid treatment programs. These rules cover areas such as approval and maintenance of licenses, patient eligibility for admission, treatment standards, and measures to prevent drug diversion. Opioid treatment programs are also required to submit information on each prescription dispensed for a controlled substance to the state's prescription drug monitoring program.<sup>10</sup>

**Medication Units:** Medication units, which operate under the license of an opioid treatment program, must hold a separate registration from the DEA and a medication unit license from the state's Department of Health. Rules and regulations govern the licensing and monitoring of medication units, including standards for approval and maintenance of licensure, assessment of community needs, and standards of patient care.<sup>10</sup>

**Support from North Dakota Medical Association (NDMA):** The NDMA works to identify and address barriers that patients may face when seeking addiction treatment. They provide education on effective prescribing practices, as well as treatment for pain management and substance use disorders.

The following recommendations can be considered for improving the referral and access to treatment in North Dakota.

1. **Enhance Education and Training:** Provide healthcare professionals with comprehensive education and training on buprenorphine use, treatment options for opioid use disorder, and best practices in pain management. There remains reluctance on the part of some providers in North Dakota to initiate suboxone use, and such training could help overcome these hesitations.
2. **Improve Access to Treatment:** Enhance availability and resources for treatment facilities, including buprenorphine clinics, to ensure individuals with opioid use disorder can access timely and comprehensive care.

3. **Strengthen Licensing and Monitoring:** Implement clear regulations and monitoring processes for opioid treatment programs and medication units to ensure safety, quality, and compliance with licensing requirements.
4. **Foster Collaboration:** Collaborate with organizations like the North Dakota Medical Association (NDMA) to advocate for policies that support effective treatment, responsible prescribing practices, and the removal of barriers to accessing addiction treatment services.
5. **Streamline Referral Systems:** Evaluate and improve referral systems to facilitate timely access to specialized care for pain management and opioid use disorder treatment.

## **8. Prevention and Education Indicators**

Efforts to prevent opioid use disorder (OUD) and promote education on these issues are critical in addressing the opioid crisis. The evaluation of prevention and education indicators in North Dakota yielded the following key findings:

**State Funding and Initiatives:** Federal funding, beginning with the STR and later the SOR funding, is available through the state to support prevention programs in North Dakota. Local public health units primarily receive funding for prevention programs at the local level and have the opportunity to apply for prevention funding. One notable initiative is the state opioid response (DOR) grant, which is awarded to the state and then allocated to public health units based on their applications. This grant addresses various aspects of OUD, including treatment, recovery, and prevention.

**State Opioid Response Grant:** North Dakota was awarded \$4,000,000 in state opioid response grant funding for the period from September 30, 2022, to September 29, 2023. This grant builds upon previous funding received through the Department of Human Services STR/SOR funding, ensuring continuity and sustained efforts to combat opioid abuse.

**The Opioid and Naloxone Education (ONE) Program:** The ONE Program has engaged in opioid-harm prevention efforts through community pharmacies, home health nursing programs, university campuses, and jails since 2018. The ONE Program has also played a role in bringing pharmacy and local healthcare systems into closer collaboration with local public health in their community-based prevention efforts.

Local Public Health Units (LPHU): Twenty-two of the 28 local public health units, and two of the four tribal health units in North Dakota applied for and received SOR funding in 2022. Some local and tribal health units consider themselves too small to have capacity to take on the opioid harm prevention work. The LPHU's who do receive SOR funding play a crucial role in addressing substance abuse issues and have contracts for various activities supported by the state opioid response grant. Their involvement in prevention programs underscores the importance of community-based initiatives.

Substance Use Disorder Voucher: The state offers a substance use disorder voucher to assist individuals with the costs associated with OUD treatment, including travel expenses. This voucher system helps reduce barriers to treatment and improves access to essential services.<sup>11</sup>

Competitive Treatment Voucher System: Licensed substance abuse treatment programs, excluding regional human service centers and hospital or medical clinic-based programs for medical management of withdrawal, can apply for a competitive substance use disorder treatment voucher system grant. This grant aims to address underserved areas and gaps in the state's substance abuse treatment system by assisting in the payment of addiction treatment services provided by licensed substance abuse treatment programs.

Out-of-State Participation: Out-of-state licensed substance abuse treatment programs located in bordering states can participate in the voucher program to serve underserved areas in North Dakota, provided they meet specific requirements. This collaboration allows for greater access to treatment options for individuals in need.<sup>11</sup>

For further enhancing the prevention and education indicators, following points can be considered.

1. Increase funding for prevention programs: Allocate additional resources to support prevention initiatives at the state and local levels, ensuring comprehensive efforts to address opioid use disorder (OUD) and substance abuse.
2. Expand access to treatment through vouchers: Enhance the substance use disorder voucher system to provide financial assistance for OUD treatment, including travel expenses, reducing barriers and improving access to essential services.

3. Foster collaboration with out-of-state treatment programs: Encourage participation of licensed substance abuse treatment programs from neighboring states in the voucher program to address underserved areas and expand treatment options for individuals in need.
4. Strengthen community-based initiatives: Support and empower local public health units to continue implementing youth prevention efforts and community-based programs, reinforcing the importance of grassroots initiatives in preventing substance abuse. Proven to be ineffective, the D.A.R.E. campaign to reduce substance misuse among youth needs to be replaced with an evidence-based program in North Dakota.
5. Sustain state opioid response grant funding: Ensure the continuity and sustainability of efforts to combat opioid abuse by maintaining and expanding funding through the state opioid response grant, allowing for ongoing treatment, recovery, and prevention initiatives. Expand SOR funding to include all 28 LPHUs and all four tribal health units.

By implementing these recommendations, North Dakota can enhance its prevention and education efforts, expand access to treatment, and strengthen community collaboration to effectively address the opioid crisis and promote healthier communities.

## **9. Continuing Medical Education Requirement**

Continuing medical education (CME) plays a vital role in ensuring that healthcare professionals stay updated with the latest knowledge and best practices in their field. State implementation of policies requiring additional education for buprenorphine prescribers related to substance misuse and addiction, Medicaid laws, and PDMP use resulted in 63% increased use of buprenorphine.<sup>12</sup> Evaluation of CME requirements in North Dakota pertaining to opioid safety and the opioid epidemic yielded the following key findings:

**CME for Emergency Room (ER) Doctors:** In North Dakota, ER doctors are mandated to complete 2 hours of continuous training related to opioid safety, opioid overdose, and the opioid epidemic. This requirement emphasizes the importance of equipping healthcare providers with the necessary knowledge and skills to effectively manage opioid-related cases and contribute to the overall efforts in combating the opioid crisis.

**Project ECHO:** Project ECHO, an initiative aimed at increasing physician vigilance and sharing of best practices, was previously implemented in North Dakota.<sup>13</sup> However, it is currently not functioning.

Substance Use Disorder Treatment Voucher System: The Substance Use Disorder Treatment Voucher System, as mandated by Century Code 50-06-42, is to assist in the payment of addiction treatment services provided by licensed substance abuse treatment programs, excluding regional human service centers, and hospital- or medical clinic-based programs for medical management of withdrawal. It requires the department to develop requirements and provide training and technical assistance to licensed substance abuse treatment programs, hospitals, and medical clinic programs that accept vouchers.<sup>14</sup> This provision ensures that healthcare professionals involved in the treatment of substance use disorders receive the necessary training and support to effectively utilize the voucher system and provide quality care to individuals seeking treatment.

Opioid Education for Healthcare Professions Students: The NDSU School of Pharmacy offers 28 hours of didactic and experiential education focused on opioid pharmacokinetics, pharmacotherapy, and misuse. This comprehensive education program equips pharmacy professionals with in-depth knowledge and practical skills related to opioids and their appropriate use. The UND School of Medicine provides 7 hours of education on opioid pharmacology, misuse, and pain management. This educational program ensures that medical professionals receive foundational knowledge and understanding of opioids and their clinical applications.

CME requirements and initiatives are crucial for equipping healthcare professionals with the knowledge and skills to address opioid safety and substance use disorder treatment. Comprehensive education programs from institutions like the NDSU School of Pharmacy and the UND School of Medicine enhance professionals' understanding of opioids. Strengthening CME requirements, exploring innovative knowledge-sharing platforms, and integrating opioid-related topics into training programs are essential for effective care and combating the opioid crisis.

Following recommendations can be put forward.

1. Strengthen Continuing Medical Education (CME) Requirements: Expand CME requirements beyond emergency room doctors to include other healthcare professionals involved in opioid prescribing and management.
2. Explore alternative strategies to revive and support Project ECHO or similar initiatives for knowledge sharing and collaboration among healthcare professionals.

3. Enhance the Substance Use Disorder Treatment Voucher System by providing ongoing training and technical assistance to licensed substance abuse treatment programs, hospitals, and medical clinic programs accepting vouchers.
4. Increase training for prescribers and pharmacists on how to have a conversation with a patient about their opioid use. This should be included in medical and pharmacy education, and also required as part of continuing education for these healthcare professionals The ONE Program Dare to Discuss (D2D) campaign is an example of efforts to increase pharmacist competence and confidence in this task.

Further integrate opioid-related topics into professional training programs, such as pharmacy and medical schools, to ensure comprehensive education on opioid pharmacology, misuse, and pain management.

## **10. Naloxone Access**

Naloxone plays a crucial role in saving lives and addressing the opioid epidemic. From 2016, when some health care professionals in North Dakota considered naloxone an enabler to opioid misuse, to the present when naloxone is almost universally supported as a life-saving tool, naloxone availability has increased substantially. The evaluation of naloxone access in North Dakota yielded the following key findings:

**Cass County Public Health:** Cass Public Health ensures that all staff members carry naloxone, emphasizing the importance of immediate access to this life-saving medication.

**Legal Protection for Naloxone Administration:** Two laws in North Dakota protect individuals who administer naloxone for a suspected opioid overdose. The first law grants civil and criminal liability protection to any individual who administers naloxone in an overdose situation. This law encourages bystanders to intervene without fear of legal repercussions. The second law provides immunity from prosecution for individuals who call 911 to seek help for themselves or someone else during an overdose. However, it is important to note that immunity is limited to the specific incident and does not provide protection for any subsequent investigations related to the overdose. So there is still reported hesitancy among some individuals to report overdoses, for fear of criminal reprisals later in the investigation process.

**Standing Order and Pharmacist Prescribing:** A standing order for naloxone allows medical officers to provide naloxone to individuals aged 18 and older without requiring an individual prescription. Additionally, pharmacists in



North Dakota have the authority to prescribe naloxone to individuals at risk of experiencing or witnessing an opioid overdose, further increasing access to this life-saving medication.

**Naloxone Expansion Program:** Nonprofit organizations in North Dakota participate in the naloxone expansion program, which enables them to distribute naloxone to individuals who may be at risk of an opioid overdose. This program contributes to increasing naloxone availability and accessibility throughout the state.

**Police Officer Training:** Police officers receive training on opioid use disorder, addiction, and the administration of naloxone.

**Investigation and Tracking:** The narcotics division of the Cass County Drug Task Force investigates fatal overdoses and tracks repeat overdose victims. This approach helps identify patterns, provide support to individuals at risk, and implement targeted interventions to prevent future overdoses.

**Legislation and Insurance Coverage:** North Dakota law allows anyone at risk of experiencing or witnessing an opioid overdose to obtain a prescription for naloxone. This provision ensures that naloxone is accessible to individuals who may need it in emergency situations. Moreover, most private health insurance plans, Medicare, and Medicaid cover naloxone for the treatment of opioid overdose, reducing financial barriers to access.

**Naloxone provision in Universities:** The “Be the ONE” program implemented by the ONE Program team at NDSU provides training on naloxone use to university student leaders and stocks naloxone in select university locations.

Naloxone access in North Dakota has been improved through various measures such as legal protections, standing orders, pharmacist prescribing, nonprofit distribution programs, and comprehensive insurance coverage. These initiatives ensure that naloxone is readily available to individuals at risk of opioid overdose. Police officer training and investigation efforts complement these measures. However, addressing limitations in legal immunity and increasing public awareness are crucial. Recommendations to increase naloxone access are provided below.

1. Enhance legal protections to grant complete immunity to individuals who call 911 during opioid overdoses, safeguarding them from potential investigations and legal consequences.
2. Raise public awareness about naloxone through comprehensive education campaigns targeting the general public, healthcare professionals, and community organizations. These initiatives should correct misconceptions, reduce stigma, and empower individuals to take prompt action during an opioid overdose.

3. Expand training programs for healthcare professionals and law enforcement personnel on opioid use disorder and naloxone administration. This training will provide them with the necessary knowledge and skills to effectively respond to opioid emergencies and administer naloxone.
4. The drug Xylazene is a muscle relaxant and pain reliever used in livestock, that has become part of the illicit mood-altering substance drug trade. Because it is not an opioid, Xylazene is resistant to naloxone, and requires additional respiratory support in a rescue effort. Increased awareness about this new drug is needed.

## **11. Good Samaritan Law**

The Good Samaritan concept is based on the principle that individuals who provide assistance during emergencies or accidents should be protected from legal liability. The evaluation of the Good Samaritan laws in North Dakota yielded the following key findings:

**Protection from Arrest:** The extent of protection from arrest under the Good Samaritan laws depends on the circumstances of the overdose and the actions taken by those involved. If individuals report the incident truthfully and provide full information, law enforcement generally does not arrest them. However, it is important for individuals to remain in contact with authorities and cooperate throughout the process.

**Reporting and Cooperation:** The effectiveness of the Good Samaritan laws is contingent upon individuals reporting the overdose and actively cooperating with law enforcement. By reporting the incident and providing necessary information, individuals are more likely to benefit from the legal protections offered by the Good Samaritan laws.

The Good Samaritan laws in North Dakota offer safeguards to individuals who report drug overdoses and cooperate with law enforcement, aiming to prioritize the safety of individuals in such situations and promote bystander assistance without legal consequences. It is crucial for individuals to understand their rights and obligations under these laws and to act accordingly to achieve optimal outcomes during drug overdose emergencies. However, the law still allows for the incident to initiate a search warrant at a later date, for which no immunity is provided. The following recommendations can be applied to enhance good Samaritan law.:

1. **Public Awareness:** Conduct comprehensive campaigns to educate the public about Good Samaritan laws, highlighting the importance of reporting drug overdoses and cooperating with law enforcement. Ensure

easy access to information about Good Samaritan laws through various channels, such as websites, brochures, and helpline numbers.

2. Education and Training: Implement programs to educate both the public and law enforcement on the provisions of Good Samaritan laws and the benefits of accurate reporting and cooperation during overdose situations.
3. Ensure that the law protects individuals acting in good faith from later retribution in the form of new investigations being launched later, resulting in absence of protection.
4. Continuous Evaluation: Establish a monitoring system to assess the effectiveness of Good Samaritan laws and make necessary adjustments for improved implementation.

## **12. Opioid Use Data Collection**

Accurate and comprehensive data collection is crucial for understanding the scope of the opioid crisis and implementing effective interventions. The evaluation of opioid use data collection practices in North Dakota yielded the following key findings:

**Mandatory Reporting:** There is a requirement for the mandatory reporting of opioid overdose and mortality cases, with access provided to law enforcement agencies. This helps in tracking and monitoring the impact of opioid misuse and overdose incidents. However, these results are not currently being publicly reported in a timely manner. The North Dakota Department of Health Opioid Dashboard is current to 2019.<sup>1</sup> Although the disruption of the COVID-19 pandemic may explain this, it is now incumbent to bring public reporting up to date.

**Children in High-Risk Homes:** Currently, there are no specific guidelines in place for collecting data on children residing in high-risk homes where opioid misuse is present. This represents a gap in data collection and understanding the potential impact on children in these environments.

**Data Collection Initiatives:** Several agencies, including the Department of Human Services, Behavioral Health Division, and the Needle Exchange Program, are involved in data collection efforts related to drug use. These initiatives contribute to the overall understanding of opioid use trends and patterns.

North Dakota Opioid Dashboard: The North Dakota Opioid Dashboard serves as a central repository of information on prescription drugs, emergency room visits, crime statistics, and proper medication disposal.<sup>1</sup> However, it lacks complete and up-to-date information, including the number of Naloxone administrations.

Substance Use Disorder Opioid Response Surveillance (SUDORS) Program: The SUDORS program collects data on drug overdose deaths and serves as a primary source of information. It plays a crucial role in monitoring opioid-related fatalities in the state.<sup>15</sup>

NDVDRS and Federal Reporting: The North Dakota Violent Death Reporting System (NDVDRS) includes drug overdoses, both fatal and non-fatal, in its mandatory reportable list. However, federal records reported by the FBI or EIA may have different numbers due to focusing on residents only and challenges in redaction.

Revived Overdoses and Non-Hospitalization: Instances of revived overdoses at home without hospitalization are not reported unless they result in death. This may lead to underreporting of non-fatal overdoses.

Drug Fatality Review Panel: The Drug Fatality Review Panel<sup>16</sup> examines prescription drug, illicit drug, or alcohol overdoses to identify factors contributing to preventable fatalities, gaps in the system, and community needs. The panel compiles an annual state report on drug fatalities, which informs policy issues and trends, including identifying gaps in the healthcare continuum that might have contributed to the person's death. The level of activity and completeness of the activity of the Drug Fatality Review Panel is not publicly available.

The recommendations for opioid use data collection are given below.

1. Develop guidelines for collecting data on children in high-risk homes to better understand their exposure to opioid misuse.
2. Enhance the completeness and timeliness of the North Dakota Opioid Dashboard, including the inclusion of Naloxone administrations.
3. Foster collaboration and coordination among agencies and programs to ensure accurate and consistent reporting of opioid-related incidents.
4. Address gaps in data collection, such as documenting non-fatal revived overdoses and expanding reporting beyond fatal cases.

5. Ensure that the NDVDRS system is linked to the federal National Violent Death Reporting System (NVDRS).

By implementing these recommendations, North Dakota can improve its data collection practices, leading to a more comprehensive understanding of the opioid crisis and facilitating targeted interventions to mitigate its impact.

### **13. Neonatal Abstinence Syndrome (NAS) reporting**

The reporting of NAS is a critical component in understanding the impact of opioid use during pregnancy and addressing the needs of affected infants. In North Dakota, there are existing measures in place for NAS reporting; however, challenges have been encountered in ensuring comprehensive and timely reporting. The following points highlight the current status of NAS reporting in the state:

**Mandatory Reporting:** There is a requirement for healthcare facilities and providers to report cases of NAS to the county Child Protection Services (CPS). This mandate is aimed at capturing accurate and reliable data on the incidence and prevalence of NAS in North Dakota. Rather than criminalizing the mother and removing the newborn from the home, an Alternative Response Assessment is used to support the mother and child remaining together at home<sup>17</sup> as stated by North Dakota Century Code 50-25.1-02

**Integration with Violent Death Reporting System:** NAS reporting has been integrated into the Violent Death Reporting System of North Dakota. This system serves as a platform for collecting data on various violent deaths, including NAS cases. However, the process of achieving consistent and complete reporting from the hospitals has faced delays and challenges due to factors such as the impact of the COVID-19 pandemic.

**Challenges in Reporting Compliance:** The implementation of NAS reporting has encountered obstacles in ensuring comprehensive reporting from hospitals and healthcare providers.

According to federal law, child welfare services are mandated to address the needs of infants born affected by controlled substances, including legal substances and prescribed opiates. In North Dakota, reports of suspected child abuse and neglect related to substance-exposed infants should be made to the ND Child Abuse and Neglect Reporting Line.

If Neonatal Abstinence Syndrome is the result of lawfully prescribed controlled substances, a Plan of Safe Care is developed with the caregiver. The Alternative Response Assessment is still offered, but declining it may lead to the termination of the assessment if there is no evidence of abuse or neglect.

In North Dakota, Child Protection Services must perform assessments to establish whether a child qualifies as an abused or neglected child. For caregivers of infants exposed to substances, an Alternative Response Assessment may be offered. This assessment concentrates on addressing the health and treatment requirements of the infant and caregiver related to substance use disorders, while also creating a plan to ensure the infant's safety. The objective of this approach is to engage families at an early stage and provide continuous support that extends beyond the assessment itself.

Participation in the Alternative Response Assessment is voluntary and depends on caregiver cooperation. Unlike a standard Child Protection Services Assessment, if the caregiver complies with the referred services and Plan of Safe Care, they will not be documented as guilty of maltreatment. The plan of safe care requires the ability to name three “safety supports” among family and sponsors. Immigrants or persons new to the community seldom have three safety supports they can name, so they are more frequently accused of maltreatment and added to the neglect and abuse index registry. The maltreatment label would otherwise be in the neglect and abuse index registry for 10 years, thus limiting their right to some jobs or housing. However, if there are safety concerns or non-cooperation with the alternative response, a standard Child Protection Assessment may be conducted.

Under North Dakota law, a neglected child includes those prenatally exposed to a controlled substance without lawful prescription. If a child protection assessment determines neglect based on prenatal exposure, it is likely to be confirmed.

Regardless of the type of assessment conducted, all newborns exposed to substances are mandated to have a Plan of Safe Care. This plan offers assistance and resources to meet the health and safety requirements of the infant, as well as the caregiver's treatment needs, including strategies to prevent relapse. The plan undergoes monitoring for a minimum of 30 days through multiple interactions and contacts.

Mandated reporters may be asked for additional information such as toxicology results. They will be contacted by the child protection worker during the assessment process, and a letter will be provided to inform them of the outcome at the assessment's closure. The recommendations for enhancing NAS reporting are given below.

1. Education and Training: Provide comprehensive education and training to healthcare providers and stakeholders to emphasize the importance of timely and accurate NAS reporting.
2. Streamlined Reporting Processes: Simplify and streamline reporting procedures, including standardized forms and electronic reporting systems.
3. Collaborative Efforts: Foster collaboration among healthcare facilities, public health agencies, and stakeholders involved in NAS reporting to address challenges and establish a coordinated approach.
4. Continuous Monitoring and Evaluation: Implement ongoing monitoring and evaluation to assess the completeness and accuracy of NAS reporting, allowing for adjustments and improvements.

By implementing these recommendations, North Dakota can improve NAS reporting, enhance understanding of the issue, and provide better care for infants affected by prenatal opioid exposure.

#### **14. Medicaid expansion**

Medicaid expansion has played a significant role in increasing access to healthcare services, including substance use disorder treatment, for low-income individuals in North Dakota. <sup>18</sup> Here are key points related to Medicaid expansion in the state:

**Expansion of Medicaid:** North Dakota expanded Medicaid under the Affordable Care Act in 2014. This expansion extended Medicaid eligibility to more low-income adults, allowing them to access essential healthcare services, including substance use disorder treatment.

**Prescription Drug Monitoring Program (PDMP) Access:** Medicaid has access to the PDMP, which is a valuable tool in monitoring and tracking the prescribing and dispensing of controlled substances. This access helps identify potential cases of opioid misuse, monitor prescription patterns, and support appropriate medication management.

**Coverage of Prescriptions:** Medicaid in North Dakota continues to provide coverage for prescription medications, including those used in the treatment of substance use disorders. This ensures that individuals enrolled in Medicaid have access to necessary medications for their recovery and ongoing treatment.

**Methadone Maintenance Treatment:** Methadone maintenance treatment is covered as a service under the state's substance use disorder voucher program. However, it's important to note that coverage for buprenorphine maintenance treatment may have certain limitations.

**Prescription Editing and Limits:** North Dakota Medicaid has implemented various prescription editing measures to promote safe and appropriate medication use, particularly for opioids. These measures include early refill edits, accumulation edits, safety edits for Tylenol combination drugs, quantity limits, therapeutic duplication edits, and prior authorization requirements. These editing measures aim to prevent misuse, ensure adherence to dosing guidelines, and reduce the risk of overdose.

**Prior Authorization and Oversight:** Medicaid utilizes prior authorization processes to ensure appropriate use of certain medications, especially for high-potency opioids. Prescribers are required to check the PDMP when requesting prior authorization for narcotics, enabling them to review patients' medication histories before making decisions. Overrides or exceptions to prescription limits are reviewed by pharmacists, with consideration given to the patient's overall medication regimen and PDMP data. Prior authorization requirements at times delay treatment, and should be frequently reviewed for appropriateness and necessity.

**Collaboration with the Drug Utilization Review Board and Pain Specialists:** Medicaid works in collaboration with the DUR Board and pain specialists to determine preferred agents for extended-release narcotics. This collaboration helps identify appropriate medications and dosage regimens for pain management while considering safety and abuse risks.

**Monitoring Medicaid Recipients:** Medicaid expansion in North Dakota has allowed for closer monitoring of recipients who are prescribed opioids or other controlled substances. Through the PDMP, Medicaid can track prescription patterns and identify potential cases of overutilization or misuse. This monitoring helps ensure the appropriate use of medications and mitigates the risk of substance abuse.

**Preferred Agents for Extended-Release Narcotics:** North Dakota Medicaid works closely with the DUR Board and pain specialists to determine preferred agents for extended-release narcotics. This collaboration helps identify the most effective and safe medications for pain management while considering the potential for abuse or diversion.



**Abuse-Deterrent Narcotics:** Medicaid has implemented measures to promote the use of abuse-deterrent narcotics. These medications have built-in properties that make them more resistant to abuse or tampering, reducing the risk of misuse and diversion. Medicaid may not require prior authorization for certain abuse-deterrent narcotics.

**Methadone, not as a Preferred Product:** Methadone, although an effective medication for pain control and opioid use disorder treatment, is not considered a preferred product for pain management under Medicaid. This decision is based on concerns about the risk of overdose associated with methadone use.

**Overrides and Exceptions:** Medicaid recipients can request overrides or exceptions to prescription limits. These requests are thoroughly reviewed by pharmacists who consider the patient's individual circumstances and medication history, including information from the PDMP, before authorizing an override.

By implementing the above measures, North Dakota Medicaid has promoted responsible prescribing practices, prevented medication misuse and abuse, and ensured that Medicaid recipients receive appropriate and safe medication therapy. These initiatives help address the opioid crisis and support the overall well-being of individuals receiving Medicaid benefits. However, further recommendations below can be considered for Medicaid expansion:

1. **Provider Education:** Provide comprehensive training to healthcare providers on Medicaid coverage for substance use disorder treatment, including medication options and prescription editing measures, in order to increase the use of best practices of care for all patients.
2. **Stakeholder Collaboration:** Foster collaboration among Medicaid agencies, healthcare providers, and treatment centers to address barriers and improve care delivery.
3. **Expand Medication Coverage:** Review limitations on coverage for buprenorphine treatment and consider expanding access.
4. **Community Outreach:** Conduct targeted awareness campaigns to ensure eligible individuals are aware of available treatment options.
5. **Address Disparities:** Pay attention to disparities in access to treatment and develop strategies for equitable care.

Implementing these recommendations will improve access to substance use disorder treatment, particularly opioids, promote responsible prescribing, and support positive outcomes for Medicaid recipients.

## **15. Medicaid utilization**

The utilization of Medicaid for opioid treatment services in North Dakota has undergone significant changes over time. Initially, Medicaid did not cover certain forms of treatment, which limited access for individuals seeking assistance. However, in recent years, there have been improvements in Medicaid coverage, enabling more individuals to access medically assisted treatment.

The presence of three medically assisted treatment sites in Bismarck and Fargo, along with registered private clinics, indicates an expansion of treatment options in the state. By offering services such as counseling, medication-assisted treatment (MAT), and support programs, these sites contribute to improving treatment outcomes and reducing the harms associated with opioid misuse.

The state's efforts to maintain links to treatment resources are essential in facilitating access and providing information to individuals in need. These links serve as valuable tools for connecting individuals with appropriate treatment providers and ensuring that they receive the necessary support on their recovery journey.

The utilization of suboxone treatment, has shown an upward trend in North Dakota. The increase in the number of people receiving suboxone treatment from 281 in January 2020 to 510 in December 2022 is indicative of the growing recognition and utilization of MAT as an effective approach to managing opioid addiction.

Recommendations for Medicaid utilization are given below:

1. Continue expanding Medicaid coverage for opioid treatment services to ensure broader access for individuals in need. This includes minimizing barriers to access for non-opioid pain therapies such as Robaxin, which is currently not a preferred agent in the North Dakota Medicaid formulary.
2. Invest in additional medically assisted treatment sites and private clinics to further increase treatment options and capacity.
3. Enhance outreach and awareness efforts to connect individuals with available treatment resources and support services.
4. Strengthen collaborations between Medicaid, healthcare providers, and community organizations to optimize coordination and effectiveness of opioid treatment services.

5. Expand reimbursement to include alternative non-opioid pain management modalities, such as acupuncture and massage, as long as they are evidence-based.

## **Discussion**

The evaluation of North Dakota's opioid-related policies has produced significant insights that can be used to guide opioid policy and practice moving forward. In this discussion section, the strengths and weaknesses identified in the evaluation are highlighted, along with the implications of the findings and potential strategies for addressing areas requiring improvement. These results offer valuable guidance for policymaking and resource allocation in North Dakota, indicating specific areas where targeted interventions and immediate attention are needed.

The establishment of the Opioid/Prescription Drug Task Force in North Dakota, along with collaborative initiatives and partnerships, demonstrates the state's commitment to addressing the opioid crisis comprehensively. The task force's composition, encompassing diverse stakeholders, allows for a holistic approach to tackling prescription drug and opioid abuse. The "Stop Overdose" campaign and the collaborative efforts of the Reducing Pharmaceutical Narcotics Task Force highlight the task force's proactive measures in community engagement, education, and prevention. However, some limitations exist within the task force's operations. While the task force includes a broad coalition of stakeholders, participation is voluntary, which may limit the consistency and sustainability of involvement. Additionally, the task force's lack of regulatory authority may hinder its ability to enforce policy changes and ensure uniform implementation across the state.

The implementation of regulatory measures and the successful shutdown of pill mills demonstrate the state's commitment to addressing the illicit prescribing and dispensing of prescription medications. By imposing limits on wholesalers and taking decisive action against pill mills, North Dakota has taken significant steps to prevent the overprescribing of opioids and reduce the risk of diversion. These regulatory measures are crucial in curbing the opioid epidemic and protecting the well-being of individuals who may be susceptible to opioid addiction. By effectively shutting down any identified pill mills, the state has sent a strong message about safeguarding the health and safety of the population.

The North Dakota PDMP plays a crucial role in promoting responsible prescribing practices and addressing the opioid epidemic in the state. By requiring registration, establishing reporting obligations, and facilitating access to PDMP reports, the program enhances monitoring and oversight of controlled substance prescribing. The PDMP's

ability to capture comprehensive prescription data empowers healthcare professionals to make informed decisions, detect potential signs of abuse or diversion, and intervene when necessary. However, it is important to note that North Dakota has enacted legislation (ND Century Code 19-03.5-05)<sup>6</sup> providing immunity to prescribers and dispensers, meaning they are not obligated to use the PDMP prior to prescribing or dispensing a controlled substance. While this provision allows for individual discretion, it may limit the program's potential impact in identifying and preventing illicit prescribing practices. Furthermore, the PDMP as it is used currently is more of a defensive approach restricting dispensing than a pro-active approach guiding patient care.

The opioid prescribing regulations in North Dakota demonstrate a comprehensive approach to address the opioid crisis and promote responsible prescribing practices. By involving the DEA in controlling opioid availability, limiting dosages, and implementing restrictions on specific conditions, the state aims to prevent misuse and diversion of these medications. The inclusion of telemedicine for opioid use disorder treatment expands access to evidence-based care. Furthermore, the requirement for licensees to comply with state and federal laws and participate in the PDMP supports effective monitoring and ensures accountability among healthcare providers. Patient rights in pain management are acknowledged, emphasizing the importance of appropriate assessment and access to pain control, even for individuals with a history of substance abuse. Informed consent practices can ensure patients are aware of the addictive nature of certain medications. Verbal communication allows healthcare providers to engage in meaningful discussions with patients, providing them with information necessary to make informed decisions about their treatment. However, a mandatory signature is currently not required in North Dakota, so one would hope that verbal communication is consistent in establishing patient understanding. The requirement for patient identification when obtaining controlled substances serves as a safeguard to prevent unauthorized access and minimize the risk of medication misuse. The scanning and storage of patient identification information in pharmacy computer systems contribute to accurate record-keeping and verification of patient identity, supporting patient safety and preventing fraudulent activities.

Although there is no specific mandate for prescribers to prescribe non-opioid alternatives as a first-line approach, healthcare providers in North Dakota demonstrate a proactive approach to non-opioid chronic pain management. The absence of a mandatory non-opioid first rule allows flexibility in treatment decisions, considering the unique

circumstances and individual needs of each patient. But it also compromises the ability to trial more non-opioid alternatives, and thus lose empirical evidence needed to expand safer analgesic options.

The establishment of a buprenorphine clinic in Carrington demonstrates efforts to improve access to treatment for OUD in a dedicated and supportive environment. The use of buprenorphine in emergency departments and the licensing requirements for opioid treatment programs highlight the importance of comprehensive care and appropriate oversight. Rules and regulations regarding licensing and monitoring ensure the safety, quality, and effectiveness of opioid treatment programs and medication units. The support from the NDMA further emphasizes the collaborative approach in addressing addiction and promoting responsible prescribing practices.

The availability of state funding and the State Opioid Response grant support the implementation of prevention programs, treatment initiatives, and recovery support in North Dakota to prevent substance abuse and educate communities about OUD. The substance use disorder voucher system helps individuals overcome financial barriers to seeking treatment, ensuring that cost is minimized as a hindrance to recovery. Furthermore, the involvement of local public health units and the opportunity for out-of-state treatment programs to participate in the voucher program foster a comprehensive and collaborative approach to addressing substance abuse.

The CME requirements related to opioid safety and the opioid epidemic for ER doctors in North Dakota reflect the state's commitment to ongoing education and professional development. Initiatives like Project ECHO have the potential to enhance physician vigilance, increase their knowledge and improve practice through the sharing of clinical experience. The provision of comprehensive education from the NDSU School of Pharmacy and the UND School of Medicine further enhances the knowledge and skills of healthcare professionals in managing opioids and addressing the opioid crisis. Continued efforts to promote CME opportunities, knowledge sharing platforms, and training initiatives will contribute to better outcomes in addressing the opioid crisis and ensuring the delivery of safe and effective care in North Dakota.

The presence of wide naloxone availability in communities across North Dakota and the legal protections granted to individuals administering naloxone demonstrate a commitment to saving lives and encouraging bystander intervention in opioid overdose situations. The standing order and pharmacist prescribing provisions enhance accessibility to naloxone by removing the need for individual prescriptions. The involvement of nonprofit organizations in the naloxone expansion program further increases the availability of naloxone to individuals at risk.

The training provided to police officers on opioid use disorder, addiction, and naloxone administration highlights the importance of a multi-sectoral approach in addressing the opioid crisis. Additionally, the investigation and tracking efforts by the narcotics division contribute to identifying high-risk individuals and implementing targeted interventions. While the existing measures have improved naloxone access, it is important to address some limitations. Good Samaritan laws regarding drug overdose incidents serve the purpose of motivating bystanders to act quickly and seek assistance without worrying about being arrested or facing legal repercussions. These laws aim to prioritize life-saving measures and ensure that individuals receive timely medical aid. It is important to recognize that the extent of protection offered by Good Samaritan laws varies depending on the particular circumstances surrounding the incident. The limited immunity provided under the Good Samaritan law for individuals who call 911 during an overdose but still face potential investigations and legal consequences later on can act as a barrier to people seeking help. This issue needs to be addressed to ensure that individuals feel safe and protected when seeking assistance during an overdose situation.

Data collection on opioid use is essential for understanding the magnitude of the opioid crisis and developing evidence-based interventions. The mandatory reporting of opioid overdose and mortality cases, along with data collection initiatives by various agencies and programs, contributes to the comprehensive understanding of opioid misuse in North Dakota. However, there are areas that require improvement, such as including children in high-risk homes in data collection efforts and ensuring the completeness and timeliness of the North Dakota Opioid Dashboard. The Drug Fatality Review Panel plays a significant role in identifying factors contributing to preventable fatalities and informing policy decisions. Collaboration and coordination between different data collection systems and agencies are necessary to ensure accurate and consistent reporting of opioid-related incidents

NAS reporting is an essential tool for understanding the impact of opioid use during pregnancy and addressing the needs of affected infants. While North Dakota has implemented mandatory reporting requirements and integrated NAS reporting into an existing system, challenges remain. These challenges include achieving consistent and complete reporting, addressing the impact of the COVID-19 pandemic, and ensuring compliance from healthcare providers. By raising awareness, providing resources, and continuously evaluating the reporting process, North Dakota can strive for a comprehensive and timely NAS reporting system that supports effective intervention and care for affected infants.

The expansion of Medicaid in North Dakota has had a significant impact on opioid prescribing practices and medication monitoring. By having access to the PDMP, Medicaid can closely monitor the prescription patterns of recipients and identify any potential cases of overutilization or misuse. This monitoring allows for early intervention and appropriate interventions to prevent the escalation of substance abuse issues. The implementation of prior authorization requirements for certain medications, especially high-potency opioids, ensures that prescribers carefully evaluate the medical necessity and appropriateness of these medications for individual patients. The collaboration between North Dakota Medicaid, the DUR Board, and pain specialists in determining preferred agents for extended-release narcotics demonstrates a proactive approach to pain management.

The exclusion of methadone as a preferred product for pain control under Medicaid is a reflection of the increased risk of overdose associated with its use. This decision aligns with efforts to prioritize patient safety and minimize the potential for harm.

The utilization of Medicaid for opioid treatment services in North Dakota has improved over time, with Medicaid coverage expanding to include previously excluded forms of treatment. The presence of medically assisted treatment sites and registered private clinics demonstrates the commitment to providing accessible and evidence-based care for individuals struggling with opioid use disorders.

The increasing utilization of suboxone treatment reflects a growing understanding of the benefits of medication-assisted treatment in addressing opioid addiction. By combining medication with counseling and support services, North Dakota is taking a comprehensive approach to help individuals achieve recovery and improve their overall well-being.

In summary, the lowest scoring domain -- medical and behavioral health services -- needs to be addressed in order to increase its impact on the effectiveness of North Dakota's efforts to mitigate the opioid crisis. This may involve allocating resources to enhance access to evidence-based treatment options, attracting more behavioral health professionals to work in North Dakota, promoting interdisciplinary collaborations among healthcare professionals, and integrating mental health services into the continuum of care for individuals with opioid addiction.

Furthermore, the close to-exemplary performance in certain domains should be expanded upon. The Prescription Drug Monitoring Program (PDMP), for instance, can be further leveraged to improve surveillance, identify

prescribing patterns, and enhance communication among healthcare providers. Scaling up successful prevention programs and ensuring widespread access to Naloxone can also contribute to reducing opioid-related harms and saving lives.

## **Recommendations**

The recommendations stemming from this evaluation emphasize the importance of a policy, systems, and environment (PSE) approach. This approach recognizes that policy change at the highest-level influences system changes, which, in turn, impact the local environment. It is crucial to energize the existing opioid task forces, foster intersectoral communication, and engage in strategic planning to facilitate coordinated efforts and ensure the effective implementation of evidence-based policies.

**Strengthen Medical and Behavioral Health Response:** Address the identified inadequacies in the medical and behavioral health domain by enhancing access to non-opioid pain management options, expanding referral and treatment services for opioid addiction, and promoting integrated care for co-occurring mental health disorders. This can be achieved through targeted funding, workforce development, and collaboration between healthcare providers and mental health professionals.

**Enhance Prevention and Education Efforts:** Further strengthen prevention and education indicators by expanding community-based prevention programs, increasing public awareness campaigns, and targeting high-risk populations. Invest in evidence-based prevention strategies that address the root causes of opioid addiction and promote alternative pain management methods.

**Improve Data Collection and Analysis:** Enhance opioid use data collection methods to provide more comprehensive and real-time insights into opioid use patterns, overdoses, and treatment outcomes. Improve data sharing and analysis systems to facilitate evidence-based decision-making and guide targeted interventions.

**Optimize Medicaid Utilization:** Streamline access to treatment services for individuals covered by Medicaid and ensure effective coordination among healthcare providers and Medicaid beneficiaries. This can be achieved through policies that promote provider reimbursement, reduce administrative burdens, and facilitate care coordination.

**Support Intersectoral Communication and Strategic Planning:** Energize the existing opioid task forces in North Dakota by promoting interagency collaboration, communication, and strategic planning. Foster partnerships between



government agencies, healthcare organizations, community-based organizations, and other relevant stakeholders to ensure a coordinated and comprehensive approach to opioid mitigation.

**Continuous Evaluation and Research:** Conduct regular evaluations and research to assess the long-term impact of policies, interventions, and system changes. Monitor and adapt policies in response to emerging evidence, new challenges, and evolving needs to ensure the effectiveness and sustainability of opioid-related initiatives.

By implementing these recommendations, North Dakota can strengthen its opioid-related policies, enhance its response to the opioid crisis, and improve population health outcomes. These actions require a sustained commitment from policymakers, healthcare providers, community organizations, and the public to create a comprehensive and multifaceted approach to address the complex challenges posed by opioid addiction.

### **Limitations**

**Generalizability:** The findings and recommendations of this research report are specific to the context of North Dakota and may not be directly applicable to other states or regions. The unique demographic, socioeconomic, and healthcare factors in North Dakota may limit the generalizability of the results.

**Data Availability:** The evaluation of opioid-related policies relied on available data sources, which may have limitations in terms of completeness and accuracy. The quality and comprehensiveness of the data collected could impact the accuracy and reliability of the findings. Stakeholders and content experts who contributed their experience (Appendix A) through depth interviews were not representative of all possible opinions, so there may have been inaccuracies or missing information.

**Subjectivity:** The scoring of the policy domains involved subjective judgment by the expert panel. While efforts were made to ensure consistency and objectivity, individual biases may have influenced the scoring process.

### **Conclusion**

This research report evaluated the opioid-related policies in North Dakota using the framework developed by Shaver et al. The findings highlight both strengths and areas for improvement in the state's approach to addressing the opioid epidemic. While North Dakota's policies align closely with public health best practices in several domains, there are specific areas that require attention and enhancement.

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## Appendix A. Content Experts Interviewed for this Study

Name	Position
Howard Anderson	Former North Dakota State Senator, Former Executive Director of the North Dakota Board of Pharmacy
Mark J. Hardy	Executive Director, North Dakota Board of Pharmacy
Mike Schwab	Director, North Dakota Pharmacists Association
Robin Littke Sall	Prevention Coordinator
Judy Lee	Current North Dakota State Senator
Tim Mathern	Current North Dakota State Senator, Public Policy Director
Christopher MD	Medical Provider
Dr. Brenden Joyce	North Dakota Department of Health and Human Services Pharmacy Services Administrator
Sheriff Jesse Jahner	Cass County Sheriff
Chief David Zibolski	Fargo Police Chief
Krista Fremming	Interim director, North Dakota Department of Health and Human Services Medicaid Services
Courtney Koebele	Executive Director, North Dakota Medical Association
Shane Wendel, PharmD	Central Pharmacy Owner and Manager Pharmacist
James Knopik	North Dakota Department of Health and Human Services Manager, Addiction and Prevention Program and Policy
Jennifer Grabar, LBSW	North Dakota Department of Health and Human Services Child Maltreatment and Fatality Manager
Steven Sonnamaker, MD	Emergency Department Medical Doctor
LeNeika Roehrich	Clinical Pharmacist
Kodi Pinks	North Dakota Department of Health and Human Services
Destrie Overmoe	Cass County North Dakota Child Protection Services Social Worker & Training Lead Family Services
Alicia Schumacher, LBSW	Children and Family Services- Field Service Specialist
Ashley Lill	Cass County North Dakota Child Protection Services
Mavis Brown	Cass County North Dakota Child Protection Services

## **Appendix B.**

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