

Fifty-fifth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2223

Introduced by

Senators Thane, Lips

Representatives Grumbo, Svedjan

1 A BILL for an Act to amend and reenact section 26.1-36-12.2 of the North Dakota Century
2 Code, relating to equity in prescription drug insurance coverage; and to provide a penalty.

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

4 **SECTION 1. AMENDMENT.** Section 26.1-36-12.2 of the North Dakota Century Code
5 is amended and reenacted as follows:

6 **26.1-36-12.2. Freedom of choice for pharmacy services - Mail order coverage.**

7 1. No third-party payor, including a health care insurer as defined in section
8 26.1-47-01, providing pharmacy services and prescription drugs to any beneficiary
9 may:

10 a. Prevent a beneficiary from selecting the pharmacy or pharmacist of the
11 beneficiary's choice to provide pharmaceutical goods and services, provided
12 that pharmacist or pharmacy is licensed in this state;

13 b. Impose upon any beneficiary selecting a participating or contracting provider a
14 copayment, fee, or other condition not equally imposed upon all beneficiaries
15 in the plan selecting a participating or contracting provider; or

16 c. Deny any pharmacy or pharmacist the right to participate as a preferred
17 provider under chapter 26.1-47 or as a contracting provider for any policy or
18 plan, provided the pharmacist or pharmacy is licensed in this state, and
19 accepts the terms of the third-party payor's contract.

20 2. Notwithstanding ~~the provisions of~~ subsection 1, the department of human services
21 may exclude, from participation in the medical assistance program administered
22 under chapter 50-24.1 and title XIX of the Social Security Act [Pub. L. 89-97; 79
23 Stat. 343; 42 U.S.C. 1396; et seq.], as amended, any provider of pharmacy
24 services who does not agree to comply with state and federal requirements

governing the program, or who, after so agreeing, fails to comply with those requirements.

3. No third-party payor, including a health care insurer as defined in section 26.1-47-01, providing pharmacy services and prescription drugs to any beneficiary may provide mail order prescription drug coverage unless the drug coverage plan also provides equitable non-mail order prescription drug coverage. The non-mail order coverage is equitable if:

a. Benefits under the non-mail order prescription coverage are provided in the same manner as all drugs and in all circumstances under which benefits are provided under the mail order prescription drug coverage;

b. No deduction or similar cost-sharing is imposed on benefits under the non-mail order prescription drug coverage, unless this deductible or similar cost-sharing is imposed on benefits under the mail order prescription drug coverage; and

c. The benefits for the non-mail order coverage ensure that:

(1) The amount paid for non-mail order prescription drug coverage is equal to or greater than the amount paid for mail order coverage for the same drug; or

(2) The cost-sharing, including deductibles, copayments, or coinsurance, imposed on non-mail order coverage is equal to or less than the cost-sharing imposed on the mail order coverage.

~~4.~~ Any provision in a health insurance policy in this state which violates ~~the provisions in subsection 1 or 3~~ is void.

~~4.~~ 5. Any person who violates this section is guilty of a class A misdemeanor and each violation is a separate offense. The commissioner may levy an administrative penalty not to exceed ten thousand dollars for a violation of this section.

~~5.~~ 6. The commissioner of insurance shall enforce ~~the provisions of~~ this section.