

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2331

Introduced by

Senators T. Mathern, Thane

Representative Fairfield

1 A BILL for an Act to create a new section to chapter 26.1-36 and a new section to chapter
2 54-52.1 of the North Dakota Century Code, relating to insurance coverage for medical services
3 provided to individuals under age twenty-two; and to amend and reenact section 26.1-26.4-02
4 of the North Dakota Century Code, relating to the definition of medically necessary.

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

6 **SECTION 1. AMENDMENT.** Section 26.1-26.4-02 of the 1999 Supplement to the
7 North Dakota Century Code is amended and reenacted as follows:

8 **26.1-26.4-02. Definitions.** For purposes of this chapter, unless the context requires
9 otherwise:

- 10 1. "Commissioner" means the insurance commissioner.
- 11 2. "Emergency medical condition" means a medical condition of recent onset and
12 severity, including severe pain, that would lead a prudent layperson acting
13 reasonably and possessing an average knowledge of health and medicine to
14 believe that the absence of immediate medical attention could reasonably be
15 expected to result in serious impairment to bodily function, serious dysfunction of
16 any bodily organ or part, or would place the person's health, or with respect to a
17 pregnant woman the health of the woman or her unborn child, in serious jeopardy.
- 18 3. "Emergency services" means health care services, supplies, or treatments
19 furnished or required to screen, evaluate, and treat an emergency medical
20 condition.
- 21 4. "Enrollee" means an individual who has contracted for or who participates in
22 coverage under an insurance policy, a health maintenance organization contract, a
23 health service corporation contract, an employee welfare benefit plan, a hospital or
24 medical services plan, or any other benefit program providing payment,

reimbursement, or indemnification for health care costs for the individual or the individual's eligible dependents.

5. "Health care insurer" includes an insurance company as defined in section 26.1-02-01, a health service corporation as defined in section 26.1-17-01, a health maintenance organization as defined in section 26.1-18.1-01, and a fraternal benefit society as defined in section 26.1-15.1-02.

6. "Medically necessary" for individuals under age twenty-two has the same meaning as stated in section 2 of this Act.

7. "Provider of record" means the physician or other licensed practitioner identified to the utilization review agent as having primary responsibility for the care, treatment, and services rendered to an individual.

~~7.~~ 8. "Utilization review" means a system for prospective and concurrent review of the necessity and appropriateness in the allocation of health care resources and services that are subject to state insurance regulation and which are given or proposed to be given to an individual within this state. Utilization review does not include elective requests for clarification of coverage.

~~8.~~ 9. "Utilization review agent" means any person or entity performing utilization review, except:

- a. An agency of the federal government; or
- b. An agent acting on behalf of the federal government or the department of human services, but only to the extent that the agent is providing services to the federal government or the department of human services.

SECTION 2. A new section to chapter 26.1-36 of the North Dakota Century Code is created and enacted as follows:

Health insurance policy and health service contract - Coverage of services for children.

1. As used in this section:

- a. "Opinion supported by a consensus in the relevant medical community" means a medical opinion supported by reliable scientific evidence that is routinely accepted by three or more licensed practitioners actively practicing in the area of pediatric medicine or therapy.

b. "Similarly credentialed" means relevant training, relevant experience, and relevant certifications at the same level of specialization. A medical professional with credentials in a narrower specialty is similarly credentialed if that specialty includes training, experience, and certification that more closely matches the patient's needs.

2. An insurance company, a nonprofit service corporation, or a health maintenance organization may not deliver, issue, execute, or renew any health insurance policy, health service contract, or evidence of coverage on an individual, group, blanket, franchise, or association basis unless the policy, contract, or evidence of coverage provides coverage for medically necessary therapy, including physical, occupational, speech, or language therapy and equipment as prescribed by a licensed medical physician acting in the scope of that licensure for any individual under age twenty-two who is covered under the policy. The purpose of prescribing the medically necessary therapy, including physical, occupational, speech, or language therapy and equipment must be to improve or prevent deterioration of a physical or mental illness, injury, or condition; achieve, prevent deterioration of, or mitigate the speed or extent of deterioration of age-appropriate developmental capacity, functional capacity, or growth; prevent or treat a condition that threatens to cause or aggravate a disability, physical deformity, or malfunction; or address pain management as related to the treating diagnoses. Coverage is not required under this section if a similarly credentialed medical physician or physical therapist, occupational therapist, or speech or language therapist currently practicing in the field of pediatrics presents an opinion supported by a consensus in the relevant medical community, that the prescribed medically necessary therapy, including physical, occupational, and speech or language therapy and equipment will not improve or prevent deterioration of the individual's physical or mental illness, injury, or condition or pain management as related to the treating diagnoses.

SECTION 3. A new section to chapter 54-52.1 of the North Dakota Century Code is created and enacted as follows:

1 **Insurance to cover services for children.** The board shall provide medical benefits
2 coverage under a contract for insurance pursuant to section 54-52.1-04 or under a
3 self-insurance plan pursuant to section 54-52.1-04.2 for medical treatment, medical service,
4 medical therapy, medical equipment, and medical supply in the same manner as provided for
5 under section 2 of this Act.