

Sixty-second
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1386

Introduced by

Representatives Onstad, Kempenich, Delmore

Senators Andrist, Warner

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 freedom of choice for health care services; to provide a penalty; and to provide~~
3 ~~for application.~~ to provide for a legislative management study and a report from the insurance
4 department.

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

6 ~~— **SECTION 1. AMENDMENT.** Section 26.1-36-12.2 of the North Dakota Century Code is~~
7 ~~amended and reenacted as follows:~~

8 ~~— **26.1-36-12.2. Freedom of choice for pharmacyhealth care services.**~~

9 ~~— 1. No~~ A ~~third-party payer, including a health care insurer as defined in section 26.1-47-01,~~
10 ~~providing pharmacy services and prescription drugs to any beneficiary may not:~~

11 ~~— a. Prevent a beneficiary from selecting the pharmacy or pharmacist~~ health care
12 service provider ~~of the beneficiary's choice to provide pharmaceutical goods~~
13 ~~and~~ health care services, provided that pharmacist or pharmacy ~~the health care~~
14 service provider ~~is licensed in this state;~~

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

18 ~~— c. Deny any pharmacy or pharmacist~~ health care service provider ~~the right to~~
19 ~~participate as a preferred provider under chapter 26.1-47 or as a contracting~~
20 ~~provider for any policy or plan, provided the pharmacist or pharmacy~~ health care
21 service provider ~~is licensed in this state, and accepts the terms of the third-party~~
22 ~~payer's contract.~~

23 ~~— 2. Notwithstanding the provisions of subsection 1, the department of human services~~
24 ~~may exclude, from participation in the medical assistance program administered under~~

chapter 50-24.1 and title XIX of the Social Security Act [Pub. L. 89-97; 79 Stat. 343;
42 U.S.C. 1396 et seq.], as amended, any provider of pharmacy health care 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. Any provision in a health insurance policy in this state which violates the provisions in
subsection 1 is void.~~

~~4. Any person who that 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. The insurance commissioner shall enforce the provisions of this section.~~

~~**SECTION 2. APPLICATION.** This Act applies to all health care services coverage policies
issued or renewed on or after the effective date of this Act.~~

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - REPORT FROM INSURANCE DEPARTMENT.

1. During the 2011-12 interim, the legislative management shall consider studying whether steps can be taken to improve health care service providers' access to third-party payer reimbursement network systems in order to improve North Dakotans' access to health care services and to contain their health care costs and out-of-pocket expenses. For purposes of this study, health care services include major medical as well as dental and vision services. The study may include consideration of:
 - a. Whether it would improve patients' freedom of choice by allowing all health care service providers the opportunity to be included in network systems and negotiating deeper discounts with third-party payers;
 - b. Whether a third-party payer for health care services should have the ability to deny a health care service provider the right to provide services or to negotiate a contract for services that do not cover the the provider's entire scope of practice;
 - c. Whether current practices in preferred provider arrangements allow third-party payers to interfere with a patient's continuity of care; and
 - d. The positive or negative impact any changes in the current practice may have on:
 - (1) Insurance companies doing business in the state, including managed care companies and health management organizations; and

- 1 (2) Health insurance premiums.
- 2 2. As part of the study, the insurance department may assist the legislative management
- 3 by gathering information regarding current practices, including whether health care
- 4 providers are being denied provider contracts by insurance companies and other
- 5 third-party payers. The department shall make periodic reports to the legislative
- 6 management on the status of this information gathering.
- 7 3. The legislative management shall report its findings and recommendations, together
- 8 with any legislation required to implement the recommendations, to the sixty-third
- 9 legislative assembly.