

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.

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

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

7 **26.1-36-12.2. Freedom of choice for pharmacyhealth care services.**

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

10 a. Prevent a beneficiary from selecting the ~~pharmacy or pharmacist~~health care
11 service provider of the beneficiary's choice to provide ~~pharmaceutical goods~~

12 ~~and~~health care services, provided that ~~pharmacist or pharmacy~~the health care
13 service provider is licensed in this state;

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

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

22 2. Notwithstanding the provisions of subsection 1, the department of human services
23 may exclude, from participation in the medical assistance program administered under
24 chapter 50-24.1 and title XIX of the Social Security Act [Pub. L. 89-97; 79 Stat. 343;

1 42 U.S.C. 1396 et seq.], as amended, any provider of ~~pharmacy~~health care services
2 who does not agree to comply with state and federal requirements governing the
3 program, or who, after so agreeing, fails to comply with those requirements.

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

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

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

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