

**FIRST ENGROSSMENT
with Senate Amendments
ENGROSSED HOUSE BILL NO. 1422**

Introduced by

Representatives Weisz, Devlin, Kilichowski

Senators Dever, Uglem, Heckaman

1 A BILL for an Act to create and enact a new section to chapter 23-01 of the North Dakota
2 Century Code, relating to electronic drug prior authorization standards; and to provide for a
3 report to the legislative management.

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

5 **SECTION 1.** A new section to chapter 23-01 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Electronic drug prior authorization and transmission - Limitations.**

- 8 1. Effective August 1, 2013, a drug prior authorization request must be accessible to a
9 health care provider with the provider's electronic prescribing software system and
10 must be accepted electronically, through a secure electronic transmission, by the
11 payer, by the insurance company, or by the pharmacy benefit manager responsible for
12 implementing or adjudicating or for implementing and adjudicating the authorization or
13 denial of the prior authorization request. For purposes of this section, a facsimile is not
14 an electronic transmission.
- 15 2. Effective August 1, 2013, electronic transmission devices used to communicate a
16 prescription to a pharmacist may not use any means or permit any other person to use
17 any means, including advertising, commercial messaging, and popup advertisements,
18 to influence or attempt to influence through economic incentives the prescribing
19 decision of a prescribing practitioner at the point of care. Such means may not be
20 triggered by or be in specific response to the input, selection, or act of a prescribing
21 practitioner or the prescribing practitioner's staff in prescribing a certain
22 pharmaceutical or directing a patient to a certain pharmacy. Any electronic
23 communication sent to the prescriber, including advertising, commercial messaging, or
24 popup advertisements must be consistent with the product label, supported by

1 scientific evidence, and meet the federal food and drug administration requirements
2 for advertising pharmaceutical products.

3 3. Electronic prescribing software may show information regarding a payer's formulary if
4 the software is not designed to preclude or make more difficult the act of a prescribing
5 practitioner or patient selecting any particular pharmacy or pharmaceutical.

6 **SECTION 2. ELECTRONIC DRUG PRIOR AUTHORIZATION STANDARDIZATION AND**
7 **TRANSMISSION - REPORT TO LEGISLATIVE MANAGEMENT.**

8 During the 2011-12 interim,
9 the health information technology advisory committee shall establish an outline on how best to
10 standardize drug prior authorization request transactions between providers and the payers,
11 insurance companies, and pharmacy benefit managers responsible for adjudicating the
12 authorization or denial of the prescription request. The outline must be designed with the goal of
13 maximizing administrative simplification and efficiency in preparation for electronic
14 transmissions and alignment with standards that are or will potentially be used nationally. By
15 June 30, 2012, the health information technology advisory committee shall provide a report to
16 the legislative management regarding the outline on how best to standardize drug prior
 authorization request transactions.