

Sixty-third  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1274**

Introduced by

Representatives Weisz, Devlin, Oversen

Senators Klein, J. Lee, Murphy

1 A BILL for an Act to amend and reenact section 23-01-38 of the North Dakota Century Code,  
2 relating to electronic drug prior authorization.

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

4 **SECTION 1. AMENDMENT.** Section 23-01-38 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **23-01-38. Electronic drug prior authorization and transmission - Limitations.**

- 7 1. ~~Effective~~Except as otherwise provided under this subsection, effective August 1,  
8 ~~2013~~2014, a drug prior authorization request must be accessible to a health care  
9 provider with the provider's electronic prescribing software system and must be  
10 accepted electronically, through a secure electronic transmission, by the payer, by the  
11 insurance company, or by the pharmacy benefit manager responsible for implementing  
12 or adjudicating or for implementing and adjudicating the authorization or denial of the  
13 prior authorization request. For purposes of this section, a facsimile is not an  
14 electronic transmission. The health information technology advisory committee may  
15 delay the effective date of this subsection to a date that is no later than February 1,  
16 2015, by publishing notice of the delay on the committee's website before July 1,  
17 2014.
- 18 2. Effective August 1, 2013, electronic transmission devices used to communicate a  
19 prescription to a pharmacist may not use any means or permit any other person to use  
20 any means, including advertising, commercial messaging, and popup advertisements,  
21 to influence or attempt to influence through economic incentives the prescribing  
22 decision of a prescribing practitioner at the point of care. Such means may not be  
23 triggered by or be in specific response to the input, selection, or act of a prescribing  
24 practitioner or the prescribing practitioner's staff in prescribing a certain

- 1           pharmaceutical or directing a patient to a certain pharmacy. Any electronic  
2           communication sent to the prescriber, including advertising, commercial messaging, or  
3           popup advertisements must be consistent with the product label, supported by  
4           scientific evidence, and meet the federal food and drug administration requirements  
5           for advertising pharmaceutical products.
- 6        3.   Electronic prescribing software may show information regarding a payer's formulary if  
7           the software is not designed to preclude or make more difficult the act of a prescribing  
8           practitioner or patient selecting any particular pharmacy or pharmaceutical.