

March 9, 2021

Madam Chair and members of the Senate Human Services Committee –

Good Afternoon, my name is Dylan Wheeler, Senior Legislative Affairs Specialist for Sanford Health. I am here today to respectfully oppose HB1465 as amended, better known as Any Willing Provider legislation. Unfortunately, what has been construed as a bill premised as a substitute for “consumer choice” or “member choice” actually would inhibit future innovation, eliminate that same consumer or member choice for lower cost health insurance options, and run contrary to quality and value based payment models. An independent review of the legislation by Deloitte during this legislative session for the Employee Benefits Committee indicated it will lead to an increase in health insurance premiums and healthcare spending.

Sanford Health, as an integrated system, continually offers access to high quality health care – including primary, speciality and many others. Today, many affordable health insurance options are available in North Dakota. An individual or group may get a policy on the ACA exchange, through their employer, or through an local agent. At this point, it is important to emphasize that this bill possibly will not apply to ERISA governed or self-funded group health insurance plans, such as plans offered by employers, which make up a large portion of the market in North Dakota.

Health plans offer numerous product offerings to its members with different networks, providers and benefit structures – each with different associated costs. For correlation, think of other insurance products (or other services generally) where you may upgrade or broaden coverage or select certain add-on coverage to suit your needs. Sanford Health Plan offers a narrow network along with many other plan offerings. This plan, called Sanford TRUE, is not sold statewide and members must be eligible, that is, have a home residence within a specified distance of certain providers – this is done to ensure that the plan meets access and availability requirements, and to ensure that the member does not have to travel a long distance to receive care.

By narrowing a network on one of its numerous products, health plans are able to significantly lower the premium cost to the member - estimated at 20%. These savings are achieved because narrower networks allow health plans to negotiate discounts with a limited set of providers in exchange for the volume of members that will seek care from those providers. This lower cost option empowers the member to make the best choice in terms of panel of providers and cost which best meets the needs and budget for them, their family, or their employees. This is all done while continuing to meet stringent network adequacy and access regulations (State and Federal) to ensure that the network provides for the member’s healthcare needs – including access to primary and specialist care.

Any Willing Provider laws raise several concerns - first, in addition to the cost considerations by individuals, families, and businesses, the market is currently trending to implement quality based and value based payment models for reimbursement. By permitting any provider to ad hoc admit into a

network with this payment mechanism, the entire framework for the pre-existing network and cost structure could be cast into doubt. To be clear, this is not to suggest that any North Dakota provider would not deliver high-quality care – however, that concern must be raised. Moreover, as written, this law would permit providers to test-drive a particular network to see if the volume and influx of patients within the network is worth the risk of remaining within the plan.

Furthermore, the plain reading of HB1465 would require health plans to contract with any provider if that provider would “willing and qualified” to accept the same terms of a participating provider. To this concept, we need to also consider its legality. Meaning whether by state statute, can two parties be compelled to contract – as well as presumably being forced to disclose competitively sensitive pricing in order to meet terms and conditions of participation.

Nationwide, and also in North Dakota, there is interest in the narrow networks and lower cost health insurance products. Our competitors, within and in other states are also offering these products. Current efforts are looking to bend the cost curve of healthcare and perhaps now more than ever, we need to consider this legislative proposal within the the economic and health landscape in which we find ourselves. Prior to COVID-19, healthcare costs and access was and continues to be an ongoing dialogue – engaging all aspects of the healthcare economic spectrum – not just the limited engaged in debate here today. COVID-19 has elevated those discussions as individuals and businesses look at ways to minimize the financial impact of COVID-19.

This bill is really a question of whether we want to continue to empower consumers and citizens to choose the unique health plan that meets their needs.

I thank you for your diligent consideration and will try to answer any questions you may have.

Respectfully Submitted,

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