

MEASURES APPROVED OVER GOVERNOR'S VETO

CHAPTER 592

HOUSE BILL NO. 1416

(Representatives Kiefert, K. Anderson, Rohr, M. Ruby, Tveit, Vigesaa, Weisz)
(Senators Conley, Wobbema)

AN ACT to create and enact section 26.1-36-12.7 of the North Dakota Century Code, relating to freedom of choice for health care services; and to provide for application.

VETO

April 13, 2023

The Honorable Dennis Johnson
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, ND

Re: House Bill 1416

Dear Speaker Johnson:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed House Bill 1416 and return it to the House.

Currently, North Dakota has only one health care system that offers both health care services (a provider) and health insurance plans (a payer) and therefore meets the bill's definition of "integrated delivery network."

House Bill 1416 targets only one health insurance plan offered in North Dakota and directly risks increasing health insurance costs for over 13,000 North Dakotans. These citizens made the personal choice to enroll in a health care plan with a narrow (versus broad) provider network to achieve paying substantially lower health insurance premiums. It should be noted that this plan's "narrow" network of approximately 3,500 North Dakota providers includes 1,600 providers who are not employees of the integrated delivery network offering the plan.

Multiple health insurers serving North Dakota also offer reduced-price premium health insurance plans tied to narrow provider networks. However, because those payers would not be subject to the restrictions in House Bill 1416, this bill, if signed, would likely invite legal challenges based on North Dakota's constitutional prohibition on "special legislation" which targets one specific business or entity.

According to public testimony provided by the state's lone integrated delivery network, employers participating in its narrow plan are required to offer employees the broad provider network alongside the narrow provider network. At the end of the day, this is the consumer's decision, and each choice must be weighed according to personal preferences, circumstances and budgets.

Vertical integration in the U.S. health care industry, for better or worse, has accelerated since the implementation of the Affordable Care Act in 2010. Hundreds of integrated delivery networks now exist across the United States. While currently we have only one integrated delivery network in North Dakota, we could see additional health care service providers align with insurance companies to offer reduced-cost, narrow network health insurance plans. Such competition from new entrants in North Dakota would be constrained by the narrow limitation of House Bill 1416.

The extensive testimony and lobbying on both sides of this bill is part of a larger, ongoing, important debate about how to achieve health care affordability, accessibility and quality for all our citizens, including in our rural and tribal areas. This larger debate in our Capitol and across our country reflects genuine concerns about the market power and the potential conflicts of interest of vertical integration between payers and providers.

However, this bill does not resolve or solve those concerns. Currently, independent providers are included in many broad network insurance offerings from North Dakota insurers. Again, all this half-page bill would accomplish is to eliminate one reduced-cost plan currently purchased and in use by 13,000 citizens, which is less than 2 percent of all North Dakotans on health insurance plans in North Dakota.

We commend the Legislature for attempting to address concerns about the market power of vertical integration in health care. We encourage the Legislature to create a joint legislative/executive branch task force including our independently elected Insurance Commissioner to build upon prior efforts and continue a comprehensive review of affordability, accessibility and quality of North Dakota's health systems during the interim. The Legislature should insist that payers and providers come to the table with transparency and direct the task force to bring forward recommendations to the 69th Legislative Assembly to reduce costs, enhance patient outcomes and improve health for all North Dakotans.

For the reasons stated above, House Bill 1416 is vetoed.

Sincerely,

Doug Burgum
Governor

Disapproved by the Governor on April 13, 2023.

Filed April 20, 2023

NOTE: The Governor's veto of House Bill No. 1416 was not sustained. For the text of House Bill No. 1416 as approved, see chapter 284.

CHAPTER 593

HOUSE BILL NO. 1463

(Representatives Porter, Bosch, D. Johnson, Lefor, Schauer)

AN ACT to amend and reenact section 44-04-21 of the North Dakota Century Code, relating to legislative voting requirements.

VETO

April 7, 2023

The Honorable Dennis Johnson
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, ND

Re: House Bill 1463

Dear Speaker Johnson:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed House Bill 1463 and return it to the House.

Governing bodies across North Dakota, including the Legislature, are bound by N.D.C.C. 44-04-21, which states "all votes of whatever kind taken at any public meeting ... must be open, public votes, and all nonprocedural votes must be recorded roll call votes, with the votes of each member being made public at the open meeting."

Floor testimony on House Bill 1463 stated the Legislature currently is in violation of this law because not all amendments receive a recorded roll call vote. However, rather than simply comply with the law, the Legislature has opted to change the law to suit its current practice.

House Bill 1463 would exclude the Legislature from the legal requirement to hold recorded roll call votes on all nonprocedural votes relating to the consideration of an amendment by a legislative committee or the full legislative assembly during a legislative session. Existing North Dakota law (N.D.C.C. 44-04-21) states that "nonprocedural" should be broadly interpreted and includes all votes that pertain to the merits of the matter before the governing body."

House Bill 1463 would allow the Legislature to adopt far-reaching amendments affecting the central policy or fiscal impact of a bill without affording the public the accountability of a recorded roll call vote. If enacted, this bill would deny the public the transparency essential to good governance.

For building public trust and confidence in our system of government, the Legislature should embrace and comply with existing North Dakota open meetings law.

For the reasons stated above, House Bill 1463 is vetoed.

Sincerely,

Doug Burgum
Governor

Disapproved by the Governor on April 7, 2023.

Filed April 17, 2023

NOTE: The Governor's veto of House Bill No. 1463 was not sustained. For the text of House Bill No. 1463 as approved, see chapter 398.