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March 14, 2023

Senator Judy Lee, Chairman
Senate Human Services Committee
North Dakota State Capitol
600 East Boulevard Avenue
Bismarck, North Dakota 58505

RE: AHIP Concerns on HB 1416, *Freedom of Choice in Health Care Services*

Dear Chairman Lee and Committee Members,

On behalf of AHIP, I write to respectfully oppose HB 1416, *Freedom of Choice in Health Care Services*. AHIP appreciates the opportunity to provide comments on this legislation and your consideration of our concerns.

Every American deserves access to affordable, comprehensive, high-quality coverage and care. Health insurance providers are committed to working together to encourage more robust competition, which is essential to providing North Dakotans with more health care choices, better quality, and lower costs.

HB 1416 would require health insurance providers with networks to contract with any health care provider willing to meet the plan's contract terms – even if the health insurance provider's network already includes an adequate and broad array of high-quality providers to meet patient needs and contractual geographic requirements.

While the intent of this mandate, commonly referred as “any willing provider” (AWP), may appear to provide North Dakotans with more health care choices, AWP laws actually impede the quality-of-care patients receive, increase health insurance costs, provide some parties with an anti-competitive advantage, and further limit North Dakota employers' and consumers' choices of health plans that fit their needs.

High prices for health care are driven, in large part, by the high prices charged by hospitals, providers, and drug manufacturers¹. From consolidated hospital markets, to private-equity-controlled physician groups, and anti-competitive contracting practices, there are already too many ways in which the competition that would lower health care prices for consumers is being impeded. We should be working to restore, rather than impede, competition in our health care system. For the reasons discussed below, AHIP is opposed to HB 1416.

- **AWP laws make it more difficult for health insurance providers to negotiate discounts from doctors and hospitals, which can lead to higher premiums for consumers.** There is wide variation on prices that doctors and hospitals charge for services. Requiring health plans to contract with “any willing provider” reduces a health insurance providers' ability to obtain

¹ AHIP, [Where Does Your Health Care Dollar Go?](#), September 6, 2022.

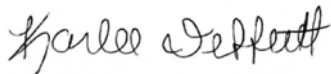
price discounts. For years, the Federal Trade Commission has expressed concerns about the impact AWP laws have on competition.

- **HB 1416 would create a presumed “right to employment or contract” -- a right that does not exist in any other industry, or even elsewhere within the health care sector.** Initiating an AWP mandate destroys incentives for improved competition and provides health care providers with rights not given to other service providers. For example, schools are not required to hire “any willing teacher”, airlines are not required to hire “any willing pilot”, physician group practices are not required to admit “any willing doctor”, and hospitals are not obliged to accept any willing physician, nurse, or other health care professionals.
- **Quality of care diminishes with universal acceptance of all interested providers.** High-value provider networks are a critical tool health plans utilize to reduce costs and ensure their members have access to, and receive care from safe, qualified providers. High-quality care, that is also cost-effective, should be the focus of carriers and legislators alike. By forcing a health insurance provider to accept any provider who states a willingness to meet contract terms, AWP requirements undermine a health plan’s effort to ensure only the doctors and hospitals that provide the highest quality and most cost-efficient care are available to their enrollees.

AHIP is committed to working with federal and state leaders on solutions to improve competition, access, and affordability for everyone. AHIP believes greater competition means more consumer choices and more patient control over their health care. AHIP’s *Healthier People Through Healthier Markets* initiative lays out a [roadmap](#) designed to improve competition in key areas of our health care system to increase affordability and access for every American. We would welcome the opportunity to work with the Senate Human Services Committee to highlight best practices in delivering more choices, better quality, and lower costs.

Thank you for the opportunity to provide feedback. We appreciate your consideration of our concerns and look forward to continuing to work with you on this important issue. For additional information and questions, please contact me at ktebbutt@ahip.org or 720-556-8908.

Sincerely,



Karlee Tebbutt
Regional Director, State Affairs
AHIP – Guiding Greater Health

AHIP is the national association whose members provide health care coverage, services, and solutions to hundreds of millions of Americans every day. We are committed to market-based solutions and public-private partnerships that make health care better and coverage more affordable and accessible for everyone. Visit www.ahip.org to learn how working together, we are Guiding Greater Health.