

January 29, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2249

Introduced by

Senators Barta, Sickler

Representatives Bahl, Karls, McLeod

1 A BILL ~~for an Act to create and enact a new section to chapter 54-52.1 of the North Dakota~~
2 ~~Century Code, relating to step therapy protocol exceptions; to provide for a report to the~~
3 ~~legislative assembly; to provide for application; and to provide an expiration date.~~for an Act to
4 provide for a legislative management study relating to health care mandates.

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

6 ~~— **SECTION 1.** A new section to chapter 54-52.1 of the North Dakota Century Code is created~~
7 ~~and enacted as follows:~~

8 ~~— **Step therapy protocol exceptions.**~~

9 ~~— 1. As used in this section:~~

10 ~~— a. "Step therapy protocol" has the same meaning as in section 19-02.1-16.3.~~

11 ~~— b. "Step therapy protocol exception" means a step therapy protocol is overridden in~~
12 ~~favor of coverage of the prescription drug selected by a health care professional~~
13 ~~as provided in subsection 2.~~

14 ~~— 2. A health carrier, health benefit plan, pharmacy benefits manager, or utilization review~~
15 ~~agent, shall approve a request for a step therapy protocol exception if:~~

16 ~~— a. The prescription drug required under the step therapy protocol is contraindicated~~
17 ~~according to the drug manufacturer's prescribing information for the drug.~~

18 ~~— b. Due to a documented adverse event with previous use or a documented medical~~
19 ~~condition, including a comorbid condition, the prescription drug is likely to:~~

20 ~~— (1) Cause an adverse reaction to a covered individual;~~

- 1 ~~————— (2) — Decrease the ability of a covered individual to achieve or maintain—~~
2 ~~reasonable functional ability in performing daily activities; or~~
3 ~~————— (3) — Cause physical or mental harm to a covered individual.~~
4 ~~————— c. — The prescription drug required under the step therapy protocol is expected to be—~~
5 ~~ineffective based on the known clinical characteristics of the covered individual,—~~
6 ~~including the individual's adherence to or compliance with the plan of care, and:~~
7 ~~————— (1) — The known characteristics of the prescription drug regimen as described in—~~
8 ~~peer-reviewed literature or in the manufacturer's prescribing information for—~~
9 ~~the drug;~~
10 ~~————— (2) — The health care professional's medical judgment based on clinical practice—~~
11 ~~guidelines or peer-reviewed journals; or~~
12 ~~————— (3) — The covered individual's documented experience with the prescription drug—~~
13 ~~regimen.~~
14 ~~————— d. — While under the covered individual's current or previous health benefit plan, for a—~~
15 ~~period of time to allow for a positive treatment outcome, the covered individual—~~
16 ~~had a trial of a therapeutically equivalent dose of the prescription drug under a—~~
17 ~~step therapy protocol, and that trial was discontinued by the covered individual's—~~
18 ~~health care professional due to lack of effectiveness.~~
19 ~~————— e. — While under the covered individual's current or previous health benefit plan, the—~~
20 ~~covered individual received a positive therapeutic outcome on a prescription drug—~~
21 ~~selected by the covered individual's health care professional for the medical—~~
22 ~~condition under consideration.~~
23 ~~————— 3. — A health carrier, health benefit plan, pharmacy benefits manager, or utilization review—~~
24 ~~agent, shall:~~
25 ~~————— a. — If the prescription drug is a covered prescription drug under the covered—~~
26 ~~individual's health benefit plan, upon approval of a request supporting a step—~~
27 ~~therapy protocol exception, authorize coverage for the prescription drug selected—~~
28 ~~by the covered individual's health care professional.~~
29 ~~————— b. — Except as provided in subdivision c, within five calendar days after the receipt of—~~
30 ~~a request supporting a step therapy protocol exception, make a determination to—~~
31 ~~approve or deny the request.~~

1 ~~c. Within seventy-two hours after the receipt of an emergency or urgent care~~
2 ~~request supporting a step therapy protocol exception, make a determination to~~
3 ~~approve or deny the request.~~

4 ~~4. If a health carrier, health plan, pharmacy benefits manager, or utilization review agent~~
5 ~~fails to respond to a request supporting a step therapy protocol exception as provided~~
6 ~~in subdivisions b or c of subsection 3, the request is deemed approved.~~

7 ~~**SECTION 2. PUBLIC EMPLOYEES RETIREMENT SYSTEM - STEP THERAPY**~~

8 ~~**PROTOCOL EXCEPTIONS - REPORT TO LEGISLATIVE ASSEMBLY.** Pursuant to section-~~
9 ~~54-03-28, the public employees retirement system shall prepare and submit for introduction a~~
10 ~~bill to the seventieth legislative assembly to repeal the expiration date for this Act and to extend~~
11 ~~step therapy protocol exception requirements to all group and individual health insurance~~
12 ~~policies. The public employees retirement system shall append a report to the bill regarding the~~
13 ~~effect of the step therapy protocol exception requirements on the system's health insurance~~
14 ~~programs, information on the utilization and costs relating to the requirements, and a~~
15 ~~recommendation regarding whether the coverage should be continued.~~

16 ~~**SECTION 3. APPLICATION.** This Act applies to health benefits coverage that begins after~~
17 ~~June 30, 2025, and which does not extend past June 30, 2027.~~

18 ~~**SECTION 4. EXPIRATION DATE.** This Act is effective through June 30, 2027, and after that~~
19 ~~date is ineffective.~~

20 **SECTION 1. LEGISLATIVE MANAGEMENT STUDY - HISTORICAL HEALTH CARE**
21 **MANDATES.**

- 22 1. During the 2025-26 interim, the legislative management shall consider studying
23 historical health care mandates. The study must include:
- 24 a. An analysis of current health care mandates, including when they were enacted,
25 the purpose, effectiveness, and present applicability;
 - 26 b. A history of health care mandates and step therapy protocol; and
 - 27 c. Input from the department of health and human services, the insurance
28 department, the public employees retirement system, insurance providers and
29 other stakeholders.

- 1 2. The legislative management shall report its findings and recommendations together
- 2 with any legislation required to implement the recommendations, to the seventieth
- 3 legislative assembly.