Good morning, Madam Chair, Members of the Senate Human Services Committee. My name is Megan Hruby and I am with Blue Cross Blue Shield of North Dakota. Thank you for listening to our perspective this morning.

Blue Cross Blue Shield of North Dakota supports affordable health care and affordable drug pricing for all of the issues our members face and allowing individuals and business to make choices about what health insurance coverage is best for them. I think our goals align with the advocates present here today. We simply disagree on the method to achieve them.

BCBSND stands in opposition to Section One of House Bill 1114, the mandate for the commercial health insurance market on the basis that insurance mandates are not effective public policy. They are anti-free market, oftentimes expensive, and stymy innovation. In North Dakota, we have never updated or repealed a single mandate. There are also risks to current plans that I believe legislators do not intend. Here are a few reasons we oppose this section of the bill.

First, we oppose the commercial application of the insulin cap because it is a bit of a false promise with caps already in place for the majority of people the policy is aimed toward.

BCBSND already has a $5 insulin copay cap for our fully insured members. We instituted this cap in 2017 when we saw pharmaceutical companies gouging diabetics with their life saving drugs. We did this on our own and without state intervention. We went a step beyond insulin alone and created a "preventative drug list." On our website you can find over six pages of drugs, including insulin and diabetes supplies, for multiple health conditions that we cover at $5 or less. We didn't choose to favor only the folks who need insulin, we looked at our members with asthma, hypertension and other chronic issues as well.

As of today, the three major health carriers in North Dakota all have an insulin cap of no more than $25 in place without the mandate. Our essential health benefits (EHB) include a $25 cap on insulin and supplies for all ACA marketplace plans. And at the federal level, in the Inflation Reduction Act of 2022, the federal government passed a $35 insulin cap for Medicare beneficiaries. Medicaid and Medicaid Expansion have cost sharing for insulin at $0.

Medicaid and Expansion $0

BCBSND $5

Sanford/Medica/PERS/ACA plans with EHB $25

Medicare $35

This is why this is a bit of a false promise. The mandate will impact only a small percentage of Blue Cross members. It is my experience that the average person you meet doesn't fully understand what type of health insurance plan they are on. They know who the carrier is, whether it is a high deductible plan and generally what the coverage is, but they don't know if it is a self-funded plan, a fully insured plan, whether it is grandfathered or non-grandfathered. And these are the categories that are usually tied to these policies. Under federal law, State imposed health insurance mandates only apply to the fully insured market. Self-funded plans, over two thirds of BCBSND's business, are governed by ERISA (or federal law) and not subject to state mandates. That means that for self-funded groups, the employer, who is typically paying the largest share of the premium and typically the HR folks, decide what benefits they offer. (See handout SF v FI). These are the tough decisions that employers must make when assessing their workforce retention and budgets. ***So, while folks will see the headlines about a $25 cap, many may not be eligible for the price cap if it were to pass because they are on an ERISA plan***. To limit this further, NDCC 26.1-36-01.1 exempts all high deductible health plans (HDHPs) with a health savings account (HSA) from mandates if they are in jeopardy of losing their HDHP status under federal law.

The only fully insured groups remaining in BCBSND's business that would receive any benefit from an insulin cap mandate are our fully insured grandfathered plans. One important thing to note is the term grandfathered plan. Those are your pre-Affordable Care Act (ACA) plans. The employers that have grandfathered plans have worked hard to keep them since passage of the ACA in 2013. Groups that are still on a grandfathered plan have an eye towards cost containment. There are risks to passing mandates that can result in a business losing their less expensive, grandfathered plan. Most grandfathered (or pre-Affordable Care Act) plans have a small margin of change they can make before they lose their grandfathered status and must switch to a non-grandfathered (or post-ACA) plan. That switch frequently includes more prevention and protection but comes at a higher cost. And, it can mean the difference between an employer being able to offer health insurance benefits and not being able to offer them. When asked by the Greater North Dakota Chamber what the one thing is that state legislators can do to help their business, healthcare affordability has been the top response for several years. We do not make health insurance more affordable by passing coverage mandates, as insurance companies do not pay for mandates, policyholders pay for mandates through the form of increased premiums.

Another reason we oppose the commercial application of the insulin cap is that it hasn't considered the input of the groups who will be most affected.

While working on this bill on the House side, it became evident to us that while the advocates are very passionate about passing cap mandate legislation, no one has asked the Fully Insured Grandfathered plans if *they* want this legislation. To that end, BCBSND has recently sent an update on the progress of the bill out to our groups and is gathering that information. An important note here is that these groups can add the cap at any time to their plans if they want, without the state mandate.

Finally, we oppose the commercial application of the insulin cap because it is another mandate chasing the wrong problem.

Blue Cross Blue Shield of North Dakota spends over $250 million annually on State Legislature imposed health insurance mandates. From 2022 to 2024, Blue Cross Blue Shield of North Dakota spent $845,233,023.79 on North Dakota State Legislature imposed health insurance mandates. We anticipate that with the addition of the 2025 numbers that will be over $1 billion. Some of them are outdated, where the science has progressed beyond what is in statute. We might cover the newer test or drug, but we are also forced to cover the outdated version because a mandate was passed at some point historically and has never changed. This committee took steps to address outdated mandates via the study in SB 2249 and we applaud and thank you for those efforts. Additionally, we have federal laws and requirements, like the Affordable Care Act, that tie our hands to what is written in law rather than allow flexibility and innovation, like what we did with our own preventative drug list.

Just a final note, if the aim of policy makers is to make health care and life saving drugs more affordable, instituting a copay cap is similar to putting a band aid on a wound that will not heal. It reduces the point-of-sale cost of insulin for the folks who need it to $25, but it does nothing to address the underlying issue of affordability, as pharmaceutical companies are still free to charge whatever they want for insulin. The more they charge, the more everyone pays for health insurance premiums, whether it's individuals, North Dakota businesses, or the state government. You'll note that pharmaceutical companies have not opted to drastically increase the price of aspirin, ibuprofen or allergy meds, instead they have chosen lifesaving drugs. Recent attention on this issue by Congress and two Presidents has put enough pressure on insulin manufacturers to lower costs, with the most drastic being Eli Lilly reducing insulin costs by 70%. Eli Lilly, Novo Nordisk and Sanolfi have all implemented $35 caps on their insulin products.

BCBSND supports continued pressure and attention on any provider that is gouging our members. Our health care costs in North Dakota are ranked third highest nationally per capita. Let's focus on solutions that get to the root of the problem at hand while allowing individuals and businesses alike to make choices about the health care coverage that is best for them.

Thank you for your time and I'll stand for any questions.