

**FIRST ENGROSSMENT
with Senate Amendments**

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1470

Introduced by

Representatives Devlin, Nelson, Sandvig, Weisz

Senators Fischer, Mathern

1 A BILL for an Act to amend and reenact subsection 2 of section 50-24.6-02 and section
2 50-24.6-04 of the North Dakota Century Code, relating to the membership of the drug use
3 review board and the prior authorization program; and to provide an expiration date.

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

5 **SECTION 1. AMENDMENT.** Subsection 2 of section 50-24.6-02 of the North Dakota
6 Century Code is amended and reenacted as follows:

- 7 2. The board consists of ~~fifteen~~ sixteen members. The pharmacy administrator of the
8 department and the medical consultant to the department are ex officio nonvoting
9 board members who shall provide administrative services to the board. ~~The~~
10 ~~executive director of the department shall appoint the remaining thirteen board~~
11 ~~members.~~ A majority of the appointed members must be physicians and
12 pharmacists participating in the medical assistance program. Four or more of the
13 appointed members must have experience with a drug use review process or have
14 participated in programs in which prior authorization is used. The appointed
15 members of the board must be:
- 16 a. ~~Six~~ Four physicians licensed in this state and actively engaged in the practice
17 of medicine, one of whom is a psychiatrist, ~~and four of whom are chosen from~~
18 ~~a list of nominees provided~~ appointed by the North Dakota medical
19 association;
- 20 b. ~~Six~~ Two physicians licensed in this state and actively engaged in the practice
21 of medicine, appointed by the executive director of the department;
- 22 c. Four pharmacists licensed in this state and actively engaged in the practice of
23 pharmacy, ~~four of whom are chosen from a list of nominees provided~~
24 appointed by the North Dakota pharmaceutical association; ~~and~~

- 1 d. Two pharmacists licensed in this state and actively engaged in the practice of
2 pharmacy, appointed by the executive director of the department;
3 e. One individual who represents consumer interests, appointed by the
4 governor; and
5 e. f. One pharmacist or physician representing the pharmaceutical industry ~~who is~~
6 ~~chosen from a list of nominees provided~~ appointed by the pharmaceutical
7 research manufacturers of America.

8 **SECTION 2. AMENDMENT.** Section 50-24.6-04 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **50-24.6-04. Prior authorization program.**

- 11 1. The department shall develop and implement a prior authorization program that
12 meets the requirements of 42 U.S.C. 1396r-8(d) to determine coverage of drug
13 products when a medical assistance recipient's health care provider prescribes a
14 drug that is identified as requiring prior authorization. Authorization must be
15 granted for provision of the drug if:
- 16 a. The drug not requiring prior authorization has not been effective, or with
17 reasonable certainty is not expected to be effective, in treating the recipient's
18 condition;
- 19 b. The drug not requiring prior authorization causes or is reasonably expected to
20 cause adverse or harmful reactions to the health of the recipient; or
- 21 c. The drug is prescribed for a medically accepted use supported by a
22 compendium or by approved product labeling unless there is a therapeutically
23 equivalent drug that is available without prior authorization.
- 24 2. For any drug placed on the prior authorization program, the department shall
25 provide medical and clinical criteria, cost information, and utilization data to the
26 drug use review board for review and consideration. The board may consider
27 department data and information from other sources to make a decision about
28 placement of the drug on prior authorization.
- 29 3. Except for quantity limits that may be no less than the pharmaceutical
30 manufacturer's package insert or AB-rated generic equivalent drug for which the
31 cost to the state postrebate is less than the brand name drugs, in the aggregate,

1 the department may not prior authorize or otherwise restrict single-source or brand
2 name antipsychotic, antidepressant, or other medications used to treat mental
3 illnesses, such as schizophrenia, depression, or bipolar disorder, and drugs
4 prescribed for the treatment of:

- 5 a. Acquired immune deficiency syndrome or human immunodeficiency virus;
6 and
7 b. Cancer.

8 4. The department may use contractors to collect and analyze the documentation
9 required under this section and to facilitate the prior authorization program.

10 ~~4.~~ 5. The department shall consult with the board in the course of adopting rules to
11 implement the prior authorization program. The rules must:

- 12 a. Establish policies and procedures necessary to implement the prior
13 authorization program.
14 b. Develop a process that allows prescribers to furnish documentation required
15 to obtain approval for a drug without interfering with patient care activities.
16 c. Allow the board to establish panels of physicians and pharmacists which
17 provide expert guidance and recommendations to the board in considering
18 specific drugs or therapeutic classes of drugs to be included in the prior
19 authorization program.

20 **SECTION 3. EXPIRATION DATE.** Section 2 of this Act is effective through July 31,
21 2007, and after that date is ineffective.