

**FIRST ENGROSSMENT**

**ENGROSSED HOUSE BILL NO. 1594**

Introduced by

Representatives Hendrix, Conmy, Frelich, Kasper, Koppelman, Rohr, Nelson, D. Johnston  
Senators Mathern, Weston, Magrum

1 A BILL for an Act to create and enact a new section to chapter 23-12 of the North Dakota  
2 Century Code, relating to medical costs transparency for health care facilities; to amend and  
3 reenact section 26.1-47-02 of the North Dakota Century Code, relating to health care facility  
4 and preferred provider compliance with medical cost transparency requirements; and to provide  
5 a penalty.

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

7 **SECTION 1.** A new section to chapter 23-12 of the North Dakota Century Code is created  
8 and enacted as follows:

9 **Medical costs transparency for health care facilities - Penalty.**

10 1. For purposes of this section:

11 a. "Health care facility" means those facilities licensed under chapter 23-16, except  
12 for nursing facilities and basic care facilities.

13 b. "Items and services" means any item or service, including individual items or  
14 service packages, which could be provided by a health care facility to a patient in  
15 connection with an inpatient admission or an outpatient visit for which the health  
16 care facility has established a standard charge, including supplies and  
17 procedures, room and board, use of facility, and services performed by health  
18 care facility staff.

19 2. Health care facilities shall:

20 a. Make available to the public a list of standard charges for:

21 (1) Items and services; and

1                   (2) Shoppable services, as outlined in title 45, Code of Federal Regulations,  
2   part 180, subpart B.

3                   b. Produce the list in a format consistent with rules adopted by the centers for  
4   Medicare and Medicaid services.

5                   3. A health care facility that violates a provision of this section may be assessed a civil  
6   penalty by the insurance commissioner. A penalty for a violation by a health care  
7   facility with more than twenty-five beds must be ten dollars per bed per day, not to  
8   exceed five thousand five hundred dollars per day, for each day the violation  
9   continues. A penalty for a violation by any other health care facility may be up to  
10   one hundred dollars per day for each day the violation continues, plus interest and any  
11   costs incurred by the insurance commissioner to enforce this penalty. The civil penalty  
12   may be imposed by a court in a civil proceeding or by the insurance commissioner  
13   through an administrative hearing under chapter 28-32. The assessment of a civil  
14   penalty does not preclude the imposition of other sanctions authorized by rules  
15   adopted under this title.

16                   **SECTION 2. AMENDMENT.** Section 26.1-47-02 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18                   **26.1-47-02. Preferred provider arrangements.**

19                   Notwithstanding any provision of law to the contrary, any health care insurer may enter into  
20 preferred provider arrangements.

21                   1. Preferred provider arrangements must:

22                   a. Establish the amount and manner of payment to the preferred provider. The  
23   amount and manner of payment may include capitation payments for preferred  
24   providers.

25                   b. Include mechanisms, subject to the minimum standards imposed by chapter  
26   26.1-26.4, which are designed to review and control the utilization of health care  
27   services and establish a procedure for determining whether health care services  
28   rendered are medically necessary.

29                   c. Include mechanisms which are designed to preserve the quality of health care.

30                   d. With regard to an arrangement in which the preferred provider is placed at risk for  
31   the cost or utilization of health care services, specifically include a description of

1 the preferred provider's responsibilities with respect to the health care insurer's  
2 applicable administrative policies and programs, including utilization review,  
3 quality assessment and improvement programs, credentialing, grievance  
4 procedures, and data reporting requirements. Any administrative responsibilities  
5 or costs not specifically described or allocated in the contract establishing the  
6 arrangement as the responsibility of the preferred provider are the responsibility  
7 of the health care insurer.

8 e. Provide that in the event the health care insurer fails to pay for health care  
9 services as set forth in the contract, the covered person is not liable to the  
10 provider for any sums owed by the health care insurer.

11 f. Provide that in the event of the health care insurer insolvency, services for a  
12 covered person continue for the period for which premium payment has been  
13 made and until the covered person's discharge from inpatient facilities.

14 g. Provide that either party terminating the contract without cause provide the other  
15 party at least sixty days' advance written notice of the termination.

16 h. Provide that if a preferred provider has failed to comply with federal transparency  
17 rules and regulations, the health care insurer may terminate the contract without  
18 consent.

19 2. Preferred provider arrangements may not unfairly deny health benefits to persons for  
20 covered medically necessary services.

21 3. Preferred provider arrangements may not restrict a health care provider from entering  
22 into preferred provider arrangements or other arrangements with other health care  
23 insurers.

24 4. A health care insurer must file all its preferred provider arrangements with the  
25 commissioner within ten days of implementing the arrangements. If the preferred  
26 provider arrangement does not meet the requirements of this chapter, the  
27 commissioner may declare the contract void and disapprove the preferred provider  
28 arrangement in accordance with the procedure for policies set out in chapter 26.1-30.

29 5. A preferred provider arrangement may not offer an inducement to a preferred provider  
30 to provide less than medically necessary services to a covered person. This  
31 subsection does not prohibit a preferred provider arrangement from including

- 1           capitation payments or shared-risk arrangements authorized under subdivision a of  
2           subsection 1 which are not tied to specific medical decisions with respect to a patient.
- 3       6.    A health care insurer may not penalize a provider because the provider, in good faith,  
4           reports to state or federal authorities any act or practice by the health care insurer  
5           which jeopardizes patient health or welfare.
- 6       7.    A preferred provider arrangement must include an attestation from the preferred  
7           provider that the preferred provider is in compliance with federal transparency rules  
8           and regulations.