

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2301

Introduced by

Senators Anderson, Dever, J. Lee

Representatives Kasper, Seibel, Weisz

1 A BILL for an Act to create and enact a new section to chapter 19-02.1 of the North Dakota
2 Century Code, relating to specialty pharmacy services; to provide a penalty; and to provide for
3 application.

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

5 **SECTION 1.** A new section to chapter 19-02.1 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Specialty pharmacy services and patient access to pharmaceuticals - Pharmacy**
8 **benefits managers - Penalty.**

9 1. As used in this section:

10 a. "Pharmacy benefits manager" has the same meaning as in section 19-03.6-01.

11 b. "Plan sponsor" has the same meaning as in section 19-03.6-01.

12 c. "Specialty drug" means a prescription drug that:

13 (1) Is not available for order or purchase by a retail community pharmacy and
14 long-term care pharmacy, regardless of whether the drug is meant to be
15 self-administered; and

16 (2) Requires special storage and has distribution or inventory limitations not
17 available at a retail community pharmacy or long-term care pharmacy.

18 d. "Third-party payer" has the same meaning as in section 19-03.6-01.

19 2. If requested by a plan sponsor contracted payer, a pharmacy benefits manager or
20 third-party payer that has an ownership interest, either directly or through an affiliate or
21 subsidiary, in a pharmacy shall disclose to the plan sponsor contracted payer any
22 difference between the amount paid to a pharmacy and the amount charged to the
23 plan sponsor contracted payer.

- 1 3. A pharmacy benefits manager or a pharmacy benefits manager's affiliates or
2 subsidiaries may not own or have an ownership interest in a patient assistance
3 program and a mail order specialty pharmacy, unless the pharmacy benefits manager,
4 affiliate, or subsidiary agrees to ~~fair competition, no self-dealing, and no interference~~
5 ~~with prospective economic advantage and establishes a firewall between the~~
6 ~~administrative functions and the mail order pharmacy~~not participate in a transaction
7 that benefits the pharmacy benefits manager, affiliate, or subsidiary instead of another
8 person owed a fiduciary duty.
- 9 4. A pharmacy benefits manager or third-party payer may not require pharmacy
10 accreditation standards or recertification requirements to participate in a network
11 which are inconsistent with, more stringent than, or in addition to the federal and state
12 requirements for licensure as a pharmacy in this state.
- 13 5. A licensed pharmacy or pharmacist may dispense any and all drugs allowed under
14 that license.
- 15 6. A pharmacy benefits manager or other third-party payer that violates this section is
16 guilty of a class B misdemeanor for each violation occurrence.

17 **SECTION 2. APPLICATION.** This Act applies to contracts and agreements in effect on and
18 after the effective date of this Act.