

**SENATE BILL NO. 2223**

Introduced by

Senators Thane, Lips

Representatives Grumbo, Svedjan

1 A BILL for an Act to amend and reenact section 26.1-36-12.2 of the North Dakota Century  
2 Code, relating to equity in prescription drug insurance coverage; and to provide a penalty.

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

4 **SECTION 1. AMENDMENT.** Section 26.1-36-12.2 of the North Dakota Century Code  
5 is amended and reenacted as follows:

6 **26.1-36-12.2. Freedom of choice for pharmacy services - Mail order coverage.**

7 1. No third-party payor, including a health care insurer as defined in section  
8 26.1-47-01, providing pharmacy services and prescription drugs to any beneficiary  
9 may:

10 a. Prevent a beneficiary from selecting the pharmacy or pharmacist of the  
11 beneficiary's choice to provide pharmaceutical goods and services, provided  
12 that pharmacist or pharmacy is licensed in this state;

13 b. Impose upon any beneficiary selecting a participating or contracting provider a  
14 copayment, fee, or other condition not equally imposed upon all beneficiaries  
15 in the plan selecting a participating or contracting provider; or

16 c. Deny any pharmacy or pharmacist the right to participate as a preferred  
17 provider under chapter 26.1-47 or as a contracting provider for any policy or  
18 plan, provided the pharmacist or pharmacy is licensed in this state, and  
19 accepts the terms of the third-party payor's contract.

20 2. Notwithstanding ~~the provisions of~~ subsection 1, the department of human services  
21 may exclude, from participation in the medical assistance program administered  
22 under chapter 50-24.1 and title XIX of the Social Security Act [Pub. L. 89-97; 79  
23 Stat. 343; 42 U.S.C. 1396; et seq.], as amended, any provider of pharmacy  
24 services who does not agree to comply with state and federal requirements

- 1 governing the program, or who, after so agreeing, fails to comply with those  
2 requirements.
- 3 3. No third-party payor, including a health care insurer as defined in section  
4 26.1-47-01, providing pharmacy services and prescription drugs to any beneficiary  
5 may provide mail order prescription drug coverage unless the drug coverage plan  
6 also provides equitable non-mail order prescription drug coverage. The non-mail  
7 order coverage is equitable if:
- 8 a. Benefits under the non-mail order prescription coverage are provided in the  
9 same manner as all drugs and in all circumstances under which benefits are  
10 provided under the mail order prescription drug coverage;
- 11 b. No deduction or similar cost-sharing is imposed on benefits under the  
12 non-mail order prescription drug coverage, unless this deductible or similar  
13 cost-sharing is imposed on benefits under the mail order prescription drug  
14 coverage; and
- 15 c. The benefits for the non-mail order coverage ensure that:
- 16 (1) The amount paid for non-mail order prescription drug coverage is equal  
17 to or greater than the amount paid for mail order coverage for the same  
18 drug; or
- 19 (2) The cost-sharing, including deductibles, copayments, or coinsurance,  
20 imposed on non-mail order coverage is equal to or less than the  
21 cost-sharing imposed on the mail order coverage.
- 22 4. Any provision in a health insurance policy in this state which violates ~~the provisions~~  
23 ~~in~~ subsection 1 or 3 is void.
- 24 4- 5. Any person who violates this section is guilty of a class A misdemeanor and each  
25 violation is a separate offense. The commissioner may levy an administrative  
26 penalty not to exceed ten thousand dollars for a violation of this section.
- 27 5- 6. The commissioner of insurance shall enforce ~~the provisions of~~ this section.