

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1274

Introduced by

Representatives Weisz, Devlin, Oversen

Senators Klein, J. Lee, Murphy

1 A BILL for an Act to amend and reenact section 23-01-38 of the North Dakota Century Code,
2 relating to electronic drug prior authorization.

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

4 **SECTION 1. AMENDMENT.** Section 23-01-38 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **23-01-38. Electronic drug prior authorization and transmission - Limitations.**

- 7 1. Effective~~Except as otherwise provided under this subsection, effective August 1,~~
8 2013~~2015~~, a drug prior authorization request must be accessible to a health care
9 provider with the provider's electronic prescribing software system and must be
10 accepted electronically, through a secure electronic transmission, by the payer, by the
11 insurance company, or by the pharmacy benefit manager responsible for implementing
12 or adjudicating or for implementing and adjudicating the authorization or denial of the
13 prior authorization request. For purposes of this section, a facsimile is not an
14 electronic transmission. The requirements in this section do not apply to workforce
15 safety and insurance.
- 16 2. Effective August 1, 2013, electronic transmission devices used to communicate a
17 prescription to a pharmacist may not use any means or permit any other person to use
18 any means, including advertising, commercial messaging, and popup advertisements,
19 to influence or attempt to influence through economic incentives the prescribing
20 decision of a prescribing practitioner at the point of care. Such means may not be
21 triggered by or be in specific response to the input, selection, or act of a prescribing
22 practitioner or the prescribing practitioner's staff in prescribing a certain
23 pharmaceutical or directing a patient to a certain pharmacy. Any electronic
24 communication sent to the prescriber, including advertising, commercial messaging, or

- 1 popup advertisements must be consistent with the product label, supported by
2 scientific evidence, and meet the federal food and drug administration requirements
3 for advertising pharmaceutical products.
- 4 3. Electronic prescribing software may show information regarding a payer's formulary if
5 the software is not designed to preclude or make more difficult the act of a prescribing
6 practitioner or patient selecting any particular pharmacy or pharmaceutical.