

**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.

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.