

Introduced by

Representatives Westlind, Tveit, Weisz

1 A BILL ~~for an Act to create and enact section 26.1-36-12.7 of the North Dakota Century Code,~~
 2 ~~relating to freedom of choice for health care services.~~for an Act to amend and reenact section
 3 26.1-36-09.15 of the North Dakota Century Code, relating to coverage of telehealth services; to
 4 provide for a legislative management study of health insurance networks; and to declare an
 5 emergency.

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

7 ~~SECTION 1. Section 26.1-36-12.7 of the North Dakota Century Code is created and~~
 8 ~~enacted as follows:~~

9 ~~26.1-36-12.7. Freedom of choice for health care services.~~

10 ~~1. As used in this section:~~

11 ~~a. "Health care provider" includes an individual licensed under chapter 43-05,~~
 12 ~~43-06, 43-12.1 as a registered nurse or as an advanced practice registered~~
 13 ~~nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42,~~
 14 ~~43-44, 43-45, 43-47, 43-58, or 43-60.~~

15 ~~b. "Policy" means a health insurance policy, contract, or evidence of coverage on a~~
 16 ~~group, individual, blanket, franchise, or association basis.~~

17 ~~2. A health insurer, including the North Dakota Medicaid program, may not obstruct~~
 18 ~~patient choice by excluding a health care provider licensed under the laws of this state~~
 19 ~~from participating on the health insurer's panel of providers if the provider is located~~
 20 ~~within the geographic coverage area of the health benefit plan and is willing and fully~~
 21 ~~qualified to meet the terms and conditions of participation, as established by the health~~
 22 ~~insurer.~~

23 **SECTION 1. AMENDMENT.** Section 26.1-36-09.15 of the North Dakota Century Code is
 24 amended and reenacted as follows:

1 **26.1-36-09.15. Coverage of telehealth services.**

2 1. As used in this section:

3 a. "Distant site" means a site at which a health care provider or health care facility is
4 located while providing medical services by means of telehealth.

5 b. "E-visit" means a face-to-face digital communication initiated by a patient to a
6 provider through the provider's online patient portal.

7 c. "Health care facility" means any office or institution at which health services are
8 provided. The term includes hospitals; clinics; ambulatory surgery centers;
9 outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted
10 living facilities; laboratories; and offices of any health care provider.

11 ~~e.d.~~ "Health care provider" includes an individual licensed under chapter 43-05,
12 43-06, 43-12.1 as a registered nurse or as an advanced practice registered
13 nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42,
14 43-44, 43-45, 43-47, 43-58, or 43-60.

15 ~~d.e.~~ "Nonpublic facing product" means a remote communication product that, as a
16 default, allows only the intended parties to participate in the communication.

17 f. "Originating site" means a site at which a patient is located at the time health
18 services are provided to the patient by means of telehealth.

19 ~~e.g.~~ "Policy" means an accident and health insurance policy, contract, or evidence of
20 coverage on a group, individual, blanket, franchise, or association basis.

21 ~~f.h.~~ "Secure connection" means a connection made using a nonpublic facing remote
22 communication product that employs end-to-end encryption, and which allows
23 only an individual and the person with whom the individual is communicating to
24 see what is transmitted.

25 i. "Store-and-forward technology" means electronic information, imaging, and
26 communication that is transferred, recorded, or otherwise stored in order to be
27 reviewed at a distant site at a later date by a health care provider or health care
28 facility without the patient present in real time. The term includes telehome
29 monitoring and interactive audio, video, and data communication.

30 ~~g.i.~~ "Telehealth":

1 (1) Means the use of interactive audio, video, or other telecommunications
2 technology that is used by a health care provider or health care facility at a
3 distant site to deliver health services at an originating site and that is
4 delivered over a secure connection that complies with the requirements of
5 state and federal laws.

6 (2) Includes the use of electronic media for consultation relating to the health
7 care diagnosis or treatment of a patient in real time or through the use of
8 store-and-forward technology.

9 (3) Does not include the use of ~~audio-only telephone~~, electronic mail, ~~or~~
10 ~~facsimile transmissions~~, or audio-only telephone unless for the purpose of
11 e-visits or a virtual check-in.

12 k. "Virtual check-in" means a brief communication via telephone or other
13 telecommunications device to decide whether an office visit or other service is
14 needed.

- 15 2. An insurer may not deliver, issue, execute, or renew a policy that provides health
16 benefits coverage unless that policy provides coverage for health services delivered
17 by means of telehealth which is the same as the coverage for health services
18 delivered by in-person means.
- 19 3. Payment or reimbursement of expenses for covered health services delivered by
20 means of telehealth under this section may be established through negotiations
21 conducted by the insurer with the health services providers in the same manner as ~~the~~
22 ~~insurer with the health services providers in the same manner as~~ the insurer
23 establishes payment or reimbursement of expenses for covered health services that
24 are delivered by in-person means.
- 25 4. Coverage under this section may be subject to deductible, coinsurance, and
26 copayment provisions.
- 27 5. This section does not require:
- 28 a. A policy to provide coverage for health services that are not medically necessary,
29 subject to the terms and conditions of the policy;

- 1 b. A policy to provide coverage for health services delivered by means of telehealth
- 2 if the policy would not provide coverage for the health services if delivered by
- 3 in-person means;
- 4 c. A policy to reimburse a health care provider or health care facility for expenses
- 5 for health services delivered by means of telehealth if the policy would not
- 6 reimburse that health care provider or health care facility if the health services
- 7 had been delivered by in-person means; or
- 8 d. A health care provider to be physically present with a patient at the originating
- 9 site unless the health care provider who is delivering health services by means of
- 10 telehealth determines the presence of a health care provider is necessary.

11 **SECTION 2. LEGISLATIVE MANAGEMENT STUDY - HEALTH INSURANCE**
12 **NETWORKS.**

- 13 1. During the 2021-22 interim, the legislative management shall consider studying health
- 14 insurance networks, including narrow networks. The study must include:
- 15 a. Consideration of the use and regulation of broad and narrow networks in the
- 16 state by individuals and employers, the sales and marketing of broad and narrow
- 17 networks, opportunities for consumer choice-of-provider, and premium
- 18 differentials among states with choice-of-provider laws;
- 19 b. A review of legislative and court history regarding the impact of choice-of-provider
- 20 laws on exclusive provider organizations and preferred provider organizations
- 21 and how choice-of-provider laws apply to risk-pooled health plans regulated by
- 22 the federal Employee Retirement Income Security Act of 1974;
- 23 c. The impact of the consolidation of the health care market on consumer cash
- 24 prices, insurance plan deductibles and premiums prices, and consumer options;
- 25 d. A comparison of health maintenance organizations provider network designs and
- 26 other health insurer provider network designs;
- 27 e. A review of how vertical integrated networks utilize HMO plans; and
- 28 f. A comparison of premiums of health benefit plans offered in the individual and
- 29 small group markets in relation to the provider network design associated with
- 30 those plans along with the growth of value-based purchasing.

1 2. The legislative management shall report its finding and recommendations, together
2 with any legislation required to implement the recommendations, to the sixty-eighth
3 legislative assembly.

4 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.