

**2021 SENATE INDUSTRY BUSINESS AND LABOR**

**SB 2073**

# 2021 SENATE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Fort Union Room, State Capitol

SB 2073  
1/12/2021

Relating to short-term limited-duration health insurance plans
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Chair Klein opened the hearing at 8:57 a.m. All members were present.  
Senators: Klein, Larsen, Burckhard, Kreun, Marcellais, Vedaa.

### Discussion Topics:

- SB 2073 Relating to short-term limited-duration health insurance plans

**Crystal Bartuska, Life/Health/Medicare Division Director** [8:58] testified in favor and submitted testimony #446.

**Don Larson** [9:08] testified in favor.

**Senator Veeda** moved a DO PASS [9:12]

**Senator Burkhard** Seconded [9:12]

[9:13]

Senators	Vote
Senator Jerry Klein	Y
Senator Doug Larsen	Y
Senator Randy A. Burckhard	Y
Senator Curt Kreun	Y
Senator Richard Marcellais	Y
Senator Shawn Vedaa	Y

Motion passed: 6-0-0

**Senator Veeda** will carry the bill [9:13].

**Chair Klein** closed the hearing at 9:11 a.m.

*Gail Stanek, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SB 2073: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2073 was placed on the Eleventh order on the calendar.

**SENATE BILL NO. 2073**

**Presented by:**        **Chrystal Bartuska**  
                              **Life/Health/Medicare Division Director**  
                              **North Dakota Insurance Department**

**Before:**                **Senate Industry, Business and Labor**  
                              **Senator Jerry Klein, Chairman**

**Date:**                  **January 12, 2021**

**TESTIMONY**

Good Morning, Chairman Klein and members of the committee. My name is Chrystal Bartuska and I am the Life and Health Division Director for the North Dakota Insurance Department. I appear before you in support of Senate Bill No. 2073.

This bill is intended to repeal an old section of our insurance title, 26.1-36-49, and to create an entirely new chapter under NDCC § 26.1-36.8 on short-term limited-duration plans. Last session, as some of you may remember, we expanded the definition of short-term limited-duration plans so that consumers were able to have a policy up to a year. This allowed a consumer to purchase one of these policies while they wait for an open enrollment period to purchase a traditional major medical policy.

These types of plans are designed to be a type of gap coverage for a person that needs some sort of basic medical coverage in the event they lose their comprehensive major medical coverage. These plans are not comprehensive in nature and typically have limited benefits for a limited time.

The new provisions of this new chapter remove some sections of the current law that also negatively impacted the products availability to consumers, such as required recorded calls. We implemented administrative rules in 2020 that put additional requirements and disclosures in place that we feel protect the consumer and therefore a recorded call is not needed.

In addition to an individual market existing for a consumer we realized that there may be a need for a more robust group market for associations. This bill creates a new section, 26.1-36.8-03, which allows for companies to create products that resemble major medical plans that are in the market right now and can be sold to associations. We hope by doing this it broadens options for associations to purchase a group type policy for its members.

These sections create and allow for underwriting and renewal criteria, along with rating criteria consistent with the Affordable Care Act (ACA) market on page 3 lines 12 through 19. Page 3 line 20 through page 4 line 3 also requires plans to offer, at a minimum, nine of the ten essential health benefits as described under the ACA.

The remaining section on page 4 is from language in the original statute, which is being repealed in §26.1-36-49, which will require the Department to continue to review marketing materials, in addition to the requirement that a producer's signature and identification number be included on the application for insurance.

In conclusion, I respectfully request a "do pass" recommendation from this committee on Senate Bill No. 2073. I am happy to take any questions.

**2021 HOUSE INDUSTRY, BUSINESS AND LABOR**

**SB 2073**

# 2021 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee  
Room JW327C, State Capitol

SB 2073  
3/9/2021

<b>Short-term limited-duration health insurance plans.</b>
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(9:44) Chairman Lefor called the hearing to order.

Representatives	Attendance	Representatives	Attendance
Chairman Lefor	P	Rep Ostlie	P
Vice Chairman Keiser	P	Rep D Ruby	P
Rep Hagert	P	Rep Schauer	P
Rep Kasper	P	Rep Stemen	P
Rep Louser	P	Rep Thomas	P
Rep Nehring	P	Rep Adams	P
Rep O'Brien	P	Rep P Anderson	P

## Discussion Topics:

- Gap coverage

Jon Godfread~ND Insurance Commissioner. Attachment # 7872.

Katie Mastel~FMWF Chamber of Commerce. Attachment # 8198

Chairman Lefor closes the hearing.

Rep Kasper moved a Do Pass.

Rep Thomas second.

<b>Representatives</b>	<b>Vote</b>
Chairman Lefor	Y
Vice Chairman Keiser	Y
Rep Hagert	Y
Rep Jim Kasper	Y
Rep Scott Louser	Y
Rep Nehring	Y
Rep O'Brien	Y
Rep Ostlie	Y
Rep Ruby	Y
Rep Schauer	Y
Rep Stemen	Y
Rep Thomas	Y
Rep Adams	Y
Rep P Anderson	Y

Vote roll call taken Motion carried 14-0-0 & Rep Kasper is the carrier.

**Additional written testimony:** Attachment # 7922.

(9:58) End time.

*Ellen LeTang, Committee Clerk*



**REPORT OF STANDING COMMITTEE**

**SB 2073: Industry, Business and Labor Committee (Rep. Lefor, Chairman)** recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2073 was placed on the Fourteenth order on the calendar.

**SENATE BILL NO. 2073**

**Presented by:**        **Jon Godfread**  
                              **Insurance Commissioner**  
                              **North Dakota Insurance Department**

**Before:**                **House Industry, Business and Labor**  
                              **Representative Mike Lefor, Chairman**

**Date:**                  **March 3rd, 2021**

**TESTIMONY**

Good Morning, Chairman Lefor and members of the committee. My name is Jon Godfread, I am the North Dakota Insurance Commissioner, and I appear before you in support of Senate Bill No. 2073.

Senate Bill 2073 comes to this committee after a unanimous vote from the Senate Chamber.

This bill is intended to repeal an old section of our insurance title, 26.1-36-49, and to create an entirely new chapter under NDCC § 26.1-36.8 on short-term limited-duration plans. Last session, as some of you may remember, we expanded the definition of short-term limited duration plans so that consumers were able to have a policy up to a year. This allowed a consumer to purchase one of these policies while they wait for an open enrollment period to purchase a traditional major medical policy.

These types of plans are designed to be a type of gap coverage for a person that needs some sort of basic medical coverage in the event they lose their comprehensive major medical coverage. These plans are not comprehensive in nature and typically have limited benefits for a limited time.

The new provisions of this new chapter remove some sections of the current law that also negatively impacted the products availability to consumers, such as required recorded calls. We

implemented administrative rules in 2020 that put additional requirements and disclosures in place that we feel protect the consumer and therefore a recorded call is not needed.

In addition to an individual market existing for a consumer we realized that there may be a need for a more robust group market for associations. This bill creates a new section, 26.1-36.8-03, which allows companies to create products that resemble major medical plans that are in the market right now and can be sold to associations. We hope by doing this it broadens options for associations to purchase a group type policy for its individual members.

These sections create and allow for underwriting and renewal criteria, along with rating criteria consistent with the Affordable Care Act (ACA) market on page 3 lines 12 through 19. Page 3 line 20 through page 4 line 3 also requires plans to offer, at a minimum, nine of the ten essential health benefits as described under the ACA. We have excluded pediatric dental and vision.

Essentially, this would create plans similar to what is being offered in other states, namely Iowa. This would create a comprehensive Association Short Term Plan, that would be limited to 364 days and allow for up to 3 renewals of that plan. These plans would be available to associations of at least 25 members.

The remaining section on page 4 is from language in the original statute, which is being repealed in §26.1-36-49, which will require the Department to continue to review marketing materials, in addition to the requirement that a producer's signature and identification number be included on the application for insurance. Repealing §26.1-36-49 and replacing it with the language in this bill, effectively removes the requirement for our agents to record phone calls with consumers, which has shown to be a significant burden on our agent community. We are comfortable with this removal as the disclosures we have added in our administrative code effectively inform the consumer of the products they are purchasing.

In conclusion, I respectfully request a "do pass" recommendation from this committee on Senate Bill No. 2073. I am happy to take any questions.

26.1-36-49. Short-term limited-duration health insurance plans.

1. As used in this section, "short-term limited-duration health insurance plan" means health insurance coverage provided pursuant to an insurance policy or group certificate of insurance that has an expiration date specified in the policy which is no longer than six months after the original effective date of the policy and, taking into account any renewals or extensions, has a duration of not more than twelve months in total. **–MOVED Pg 2 Ln 20-23 of SB 2073**

2. To the extent other state laws do not conflict with this section, any policy or rider advertised, marketed, or offered as a short-term limited-duration health insurance plan must comply with this section and all other applicable state insurance laws. **–Not Necessary.**

3. An insurer issuing a policy or certificate under this chapter shall provide, at the insured's option, for renewal or continuation of coverage. The renewal or continuation of coverage period may not extend for more than twelve months from the original effective date of the policy. **– MOVED Pg 2 Ln 25-26 of SB 2073**

4. An insured may not be subject to additional underwriting at renewal or continuation of coverage and shall remain within the same risk class as of the original effective date of the policy. **–MOVED Pg 2 Ln 27-29 of SB 2073**

5. An insurer shall provide a notice of termination of the policy or certificate to the insured at least fifteen days before renewal or end of the policy term. **–MOVED PG 3 Ln 1-3 of SB 2073 & Pg 4 Ln 4-5 (to cover association STLDI)**

6. All marketing materials related to the offering or sale of a short-term limited-duration health insurance plan must be filed with and approved by the commissioner before the plan is offered for sale in this state. **–MOVED PG 4 LN 7-9 of SB 2073**

7. Sale of a policy for short-term limited-duration health insurance plan is only allowed through a licensed and properly appointed insurance producer. An insurance producer's signature and identification number must be included on the prospective insured's application. **– BEING REMOVED – COVERD IN ADMINSTRATIVE RULE**

8. A phone call made to a prospective insured relating to the marketing or sale of a short-term limited-duration health insurance plan must be recorded and maintained by the producer or the insurer for a period of no less than one year after the termination date of the policy **–CHANGED UPDATED – PG 4 Ln 10-13 of SB 2073**



# 8198

To: House IBL  
From: Katie Mastel, Government Affairs Manager, FMWF Chamber of Commerce  
Date: March 9, 2021  
RE: **Support SB 2073**

Chair Lefor, members of the Senate IBL Committee,

For the record my name is Katie Mastel and I serve as the Government Affairs & Advocacy Manager at the Fargo, Moorhead West Fargo Chamber of Commerce. Today, on behalf of our over 2,000 Chamber members, I'm speaking in **support of SB 2073**.

Over two-thirds of our Chamber membership are small businesses with less than 50 employees. Year after year, we hear from these small businesses the need for more affordable health insurance options. Through allowing associations to purchase a group policy for its members, small businesses would have access to similar savings and options such as an aggregate rate and family coverage, that many larger companies have through the large company health insurance market. Allowing for these businesses to band together can be a major cost-savings practice.

On behalf of our Chamber membership, we respectfully urge a **do pass on SB 2073**.

Thank you for your consideration.

Katie  
[kmastel@fmwfcchamber.com](mailto:kmastel@fmwfcchamber.com)  
701.516.2114



SB 2073 Do Not Pass Testimony

March 8, 2021

Sara Mannetter, ND Government Relations Director  
American Cancer Society Cancer Action Network  
218.343.8365 | sara.mannetter@cancer.org

Dana Bacon, Regional Director, Government Affairs, Central Region  
The Leukemia & Lymphoma Society | Office of Public Policy  
612.308.0479 | dana.bacon@lls.org

Chairman Lefor, Vice-Chair Keiser and members of the Committee:

The American Cancer Society Action Network (ACS CAN) and The Leukemia & Lymphoma Society (LLS) appreciate the opportunity to comment on Senate Bill 2073. Our organizations support maintaining and expanding access to high-quality, comprehensive health care coverage for North Dakotans living with cancer. Access to quality health coverage directly affects people's ability to prevent, detect, and survive cancer. **The sad reality is that too much cancer death and suffering is attributable to gaps in coverage.** Unfortunately, the impact of this bill would be to increase plans that offer limited coverage and benefits, and that are not required to have the same consumer protections as comprehensive plans.

We oppose creating or expanding access to individual or association short-term, limited-duration plans (STLDPs). These non-comprehensive health plans carry significant risks for cancer patients, survivors and those who may be diagnosed with a serious illness while enrolled in these plans and can disrupt the stability of state insurance marketplaces.

Although SB 2073 would require association STLDPs issued under this regulation to cover most essential health benefits (EHBs), it sets no minimum standard for what constitutes "coverage" under these plans. Allowing caps on EHBs such as prescription drugs or hospital services would leave a newly diagnosed cancer patient on the hook for thousands of dollars in uncovered expenses. That's a terrible time for a patient to discover their plan does not cover the services they need.

Last year ACS CAN prepared in-depth reports on the potential harm associated with STLDPs and related products. ACS CAN's *The Costs of Cancer: 2020 Edition*<sup>1</sup> report details the devastatingly high costs a patient with cancer would face if he were enrolled in an STLDP. The paper depicts the out-of-pocket costs a young patient diagnosed with Non-Hodgkin's Lymphoma would face with different types of insurance coverage. The patient would be responsible for paying the largest share of (51 percent) the costs of his cancer treatment out-of-pocket

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<sup>1</sup> ACS CAN. The Costs of Cancer: 2020 Edition. October 2020. [www.fightcancer.org/costsofcancer](http://www.fightcancer.org/costsofcancer)

with coverage under a STLDP. In fact, in this scenario the patient would be responsible for paying \$51,660 of the \$97,849 total annual cost of treatment.

LLS' February 2020 **Cost of Cancer Care** study on the shortcomings of STLDPs found similar results. A patient newly diagnosed with lymphoma while covered by an STLDP could pay \$23,100 to \$45,800 in out-of-pocket expenses (including premiums and cost sharing for medical expenses) during the six months following diagnosis. In contrast, a patient who is newly diagnosed with lymphoma while enrolled in an ACA-compliant plan could pay \$6,300, on average, in out-of-pocket expenses over the same time period.<sup>2</sup>

**Providing North Dakotans access to affordable, comprehensive health care coverage is critical in the fight against cancer. If coverage is only affordable when it's not needed, then it's not coverage.**

We urge policymakers to stop the proliferation of non-comprehensive health insurance plans by prohibiting their sale – or at least limiting their availability – and ask for a Do Not Pass recommendation to come out of this committee.

Thank you for your time and consideration.

Sincerely,

American Cancer Society Cancer Action Network  
The Leukemia & Lymphoma Society

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<sup>2</sup> The Leukemia & Lymphoma Society. Short-Term Health Plans Leave Patients Vulnerable to Major Medical Bills, According to New Research. February 2020. <https://www.lls.org/lls-us-hq/news/short-term-health-plans-leave-patients-vulnerable-to-major-medical-bills-according-to-new-research>