

Sixty-fifth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2301

Introduced by

Senators Anderson, Dever, J. Lee

Representatives Kasper, Seibel, Weisz

1 A BILL for an Act to create and enact a new section to chapter 19-02.1 of the North Dakota  
2 Century Code, relating to specialty pharmacy services; to provide a penalty; and to provide for  
3 application.

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

5 **SECTION 1.** A new section to chapter 19-02.1 of the North Dakota Century Code is created  
6 and enacted as follows:

7 **Specialty pharmacy services and patient access to pharmaceuticals - Pharmacy**  
8 **benefits managers - Penalty.**

9 1. As used in this section:

10 a. "Pharmacy benefits manager" has the same meaning as in section 19-03.6-01.

11 b. "Plan sponsor" has the same meaning as in section 19-03.6-01.

12 c. "Specialty drug" means a prescription drug that:

13 (1) Is not available for order or purchase by a retail community pharmacy and  
14 long-term care pharmacy, regardless of whether the drug is meant to be  
15 self-administered; and

16 (2) Requires special storage and has distribution or inventory limitations not  
17 available at a retail community pharmacy or long-term care pharmacy.

18 d. "Third-party payer" has the same meaning as in section 19-03.6-01.

19 2. If requested by a plan sponsor contracted payer, a pharmacy benefits manager or  
20 third-party payer that has an ownership interest, either directly or through an affiliate or  
21 subsidiary, in a pharmacy shall disclose to the plan sponsor contracted payer any  
22 difference between the amount paid to a pharmacy and the amount charged to the  
23 plan sponsor contracted payer.

- 1       3. A pharmacy benefits manager or a pharmacy benefits manager's affiliates or  
2       subsidiaries may not own or have an ownership interest in a patient assistance  
3       program and a mail order specialty pharmacy, unless the pharmacy benefits manager,  
4       affiliate, or subsidiary agrees to ~~fair competition, no self-dealing, and no interference~~  
5       ~~with prospective economic advantage and establishes a firewall between the~~  
6       ~~administrative functions and the mail order pharmacy~~not participate in a transaction  
7       that benefits the pharmacy benefits manager, affiliate, or subsidiary instead of another  
8       person owed a fiduciary duty.
- 9       4. A pharmacy benefits manager or third-party payer may not require pharmacy  
10      accreditation standards or recertification requirements to participate in a network  
11      which are inconsistent with, more stringent than, or in addition to the federal and state  
12      requirements for licensure as a pharmacy in this state.
- 13      5. A licensed pharmacy or pharmacist may dispense any and all drugs allowed under  
14      that license.
- 15      6. A pharmacy benefits manager or other third-party payer that violates this section is  
16      guilty of a class B misdemeanor for each violation occurrence.

17      **SECTION 2. APPLICATION.** This Act applies to contracts and agreements in effect on and  
18      after the effective date of this Act.