



April 13, 2023

The Honorable Dennis Johnson
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, ND

Re: House Bill 1416

Dear Speaker Johnson:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed House Bill 1416 and return it to the House.

Currently, North Dakota has only one health care system that offers both health care services (a provider) and health insurance plans (a payer) and therefore meets the bill's definition of "integrated delivery network."

House Bill 1416 targets only one health insurance plan offered in North Dakota and directly risks increasing health insurance costs for over 13,000 North Dakotans. These citizens made the personal choice to enroll in a health care plan with a narrow (versus broad) provider network to achieve paying substantially lower health insurance premiums. It should be noted that this plan's "narrow" network of approximately 3,500 North Dakota providers includes 1,600 providers who are not employees of the integrated delivery network offering the plan.

Multiple health insurers serving North Dakota also offer reduced-price premium health insurance plans tied to narrow provider networks. However, because those payers would not be subject to the restrictions in House Bill 1416, this bill, if signed, would likely invite legal challenges based on North Dakota's constitutional prohibition on "special legislation" which targets one specific business or entity.

According to public testimony provided by the state's lone integrated delivery network, employers participating in its narrow plan are required to offer employees the broad provider network alongside the narrow provider network. At the end of the day, this is the consumer's decision, and each choice must be weighed according to personal preferences, circumstances and budgets.

Vertical integration in the U.S. health care industry, for better or worse, has accelerated since the implementation of the Affordable Care Act in 2010. Hundreds of integrated delivery networks now exist across the United States. While currently we have only one integrated delivery network in North Dakota, we could see additional health care service providers align with insurance companies to offer reduced-cost, narrow network health insurance plans. Such competition from new entrants in North Dakota would be constrained by the narrow limitation of House Bill 1416.

The extensive testimony and lobbying on both sides of this bill is part of a larger, ongoing, important debate about how to achieve health care affordability, accessibility and quality for all our citizens, including in our rural and tribal areas. This larger debate in our Capitol and across our country reflects genuine concerns about the market power and the potential conflicts of interest of vertical integration between payers and providers.

However, this bill does not resolve or solve those concerns. Currently, independent providers are included in many broad network insurance offerings from North Dakota insurers. Again, all this half-page bill would accomplish is to eliminate one reduced-cost plan currently purchased and in use by 13,000 citizens, which is less than 2 percent of all North Dakotans on health insurance plans in North Dakota.

We commend the Legislature for attempting to address concerns about the market power of vertical integration in health care. We encourage the Legislature to create a joint legislative/executive branch task force including our independently elected Insurance Commissioner to build upon prior efforts and continue a comprehensive review of affordability, accessibility and quality of North Dakota's health systems during the interim. The Legislature should insist that payers and providers come to the table with transparency and direct the task force to bring forward recommendations to the 69th Legislative Assembly to reduce costs, enhance patient outcomes and improve health for all North Dakotans.

For the reasons stated above, House Bill 1416 is vetoed.

Sincerely,



Doug Burgum
Governor

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1416
(Representatives Kiefert, K. Anderson, Rohr, M. Ruby, Tveit, Vigesaa, Weisz)
(Senators Conley, Wobbema)

AN ACT to create and enact section 26.1-36-12.7 of the North Dakota Century Code, relating to freedom of choice for health care services; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. As used in this section:
 - a. "Health benefit plan" has the same meaning as provided in section 26.1-36.3-01.
 - b. "Health care provider" includes an individual licensed under chapters 43-05, 43-06, 43-12.1 as a registered nurse or as an advanced practice registered nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42, 43-44, 43-45, 43-47, 43-58, or 43-60.
 - c. "Integrated delivery network" means a system of health care providers and facilities which offer both health care services and health benefit plans.
2. A health insurer, including the Medicaid program, which is part of an integrated delivery network may not obstruct patient choice by excluding a health care provider licensed under the laws of this state from participating on the health insurer's panel of providers if the provider is located within the geographic coverage area of the health benefit plan and is willing and fully qualified to meet the terms and conditions of participation, as established by the health insurer.

SECTION 2. APPLICATION. This Act applies to health benefit plans offered or sold on or after December 31, 2024.

Dennis Johnson
Speaker of the House

Paul Schulte
President of the Senate

Buell F. Reeb
Chief Clerk of the House

David Mogn
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1416.

House Vote: Yeas 89 Nays 3 Absent 2

Senate Vote: Yeas 27 Nays 20 Absent 0

Buell F. Reeb
Chief Clerk of the House

Received by the Governor at 3:55 PM. on April 10, 2023.

Approved at _____ M. on _____, 2023.

Governor

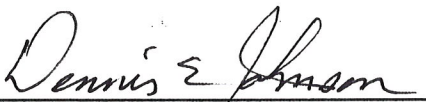
Filed in this office this 20th day of April, 2023,
at 3:12 o'clock P. M.

Michael Howe
Secretary of State

Honorable Michael Howe
Secretary of State
Bismarck, North Dakota

I certify this Act, House Bill No. 1416, together with the objections of Governor Burgum, was returned to the House, being the body in which it originated, on January 16, 2023; that the objections of the Governor were read at length on April 17, 2023, and entered upon the Journal; that the Bill was taken up for reconsideration; that the motion for reconsideration prevailed on April 18, 2023, at 7:46 a.m.; and the roll was called and the Bill did pass, with more than two-thirds of the members-elect voting in the affirmative.

Vote:	Yeas	90
	Nays	0
	Absent and not voting	4



Speaker of the House



Chief Clerk of the House


Honorable Michael Howe
Secretary of State
Bismarck, North Dakota

I certify this Act, House Bill No. 1416, together with the objections of Governor Burgum, was received from the House, being the body in which it originated, on January 16, 2023; that the objections of the Governor were read at length on April 19, 2023, and entered upon the Journal; that the Bill was taken up for reconsideration; that the motion for reconsideration prevailed on April 19, 2023, at 12:49 p.m.; and the roll was called and the Bill did pass, with more than two-thirds of the members-elect voting in the affirmative.

Vote:	Yeas	36
	Nays	11
	Absent and not voting	0



President of the Senate



Secretary of the Senate