

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

SENATE BILL NO. 2073
(Industry, Business and Labor Committee)
(At the request of the Insurance Commissioner)

AN ACT to create and enact chapter 26.1-36.8 of the North Dakota Century Code, relating to short-term limited-duration health insurance plans; to amend and reenact section 26.1-36.4-02 and subsection 7 of section 26.1-36.7-01 of the North Dakota Century Code, relating to short-term limited-duration health insurance plans; and to repeal section 26.1-36-49 of the North Dakota Century Code, relating to short-term limited-duration health insurance plans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-36.4-02 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.4-02. Definitions.

As used in this chapter, the definitions in section 26.1-36.3-01 apply, unless the context otherwise requires. In addition:

1. "Insurer" means any insurance company, nonprofit health service organization, fraternal benefit society, or health maintenance organization that provides a plan of health insurance or health benefits subject to state insurance regulation.
2. "Policy" means any health benefit plan as defined in section 26.1-36.3-01, whether offered on a group or individual basis. The term does not include an individual short-term limited-duration health insurance plan offered in the individual market plan or association short-term limited-duration plan as defined in section 26.1-36.8-01.
3. ~~"Short-term limited-duration health insurance plan", except as required by the Health Insurance Portability and Accountability Act of 1996, is defined by section 26.1-36-49.~~

SECTION 2. AMENDMENT. Subsection 7 of section 26.1-36.7-01 of the North Dakota Century Code is amended and reenacted as follows:

7. "Individual health benefit plan" means a health benefit plan offered to individuals, other than in connection with a group health benefit plan. The term does not include an individual short-term limited-duration health insurance plan or association short-term limited-duration plan as defined by section 26.1-36-49~~26.1-36.8-01.~~

SECTION 3. Chapter 26.1-36.8 of the North Dakota Century Code is created and enacted as follows:

26.1-36.8-01. Definitions.

1. "Association" means a group that has a constitution and bylaws, has been organized and maintained in good faith for the purposes other than that of obtaining insurance, and insures at least twenty-five members of the association for the benefit of persons other than the association or officers or trustees of the association.
2. "Association short-term limited-duration plan" means health insurance coverage provided to an association which has an expiration date specified in the policy which is no longer than twelve months after the original effective date of the policy and, taking into account any renewals or extensions, has a duration of no more than thirty-six months in total.

3. "Essential health benefits" means benefits pursuant to section 1302 of the federal Patient Protection and Affordable Care Act [42 U.S.C. 18022] and title 45, Code of Federal Regulations, section 156.110.
4. "Individual short-term limited-duration plan" means health insurance coverage provided pursuant to an individual insurance policy which has an expiration date specified in the policy which is no longer than twelve months after the original effective date of the policy including renewals or extension.

26.1-36.8-02. Individual short-term limited-duration plans.

1. An insurer issuing an individual short-term limited-duration plan shall provide, at the insured's option, for renewal or continuation of coverage.
2. An insurer may not subject an insured to additional underwriting at renewal or continuation of coverage and the insured shall remain within the same risk class as of the original effective date of the policy.
3. An insurer shall provide a notice of termination of the individual short-term limited-duration plan to the insured at least fifteen days before renewal or end of the policy term.

26.1-36.8-03. Association short-term limited-duration insurance plans.

1. For purposes of this section an association short-term limited-duration insurance plan approved under section 26.1-30-19 before August 1, 2021, may maintain the current plan and is not required to comply with the requirements of this section.
2. An insurer issuing a policy or certificate under this section 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 thirty-six months from the original effective date of the policy.
3. An insurer may not subject an insured to additional underwriting at renewal or continuation of coverage. An insurer offering a short-term limited-duration health insurance plan may not rate an insured based on any factor other than:
 - a. Geographic areas;
 - b. Tobacco use;
 - c. Family size;
 - d. Age; and
 - e. Gender.
4. At a minimum, an association short-term limited-duration plan must cover the following:
 - a. Ambulatory patient services in accordance with the essential health benefits;
 - b. Emergency services in accordance with the essential health benefits;
 - c. Hospitalization in accordance with the essential health benefits;
 - d. Pregnancy, maternity, and newborn care in accordance with the essential health benefits;
 - e. Mental health and substance use disorder services in accordance with the essential health benefits;
 - f. Prescription drugs in accordance with the essential health benefits;

- g. Rehabilitative and habilitative services and devices in accordance with the essential health benefits;
 - h. Laboratory services in accordance with the essential health benefits; and
 - i. Preventive and wellness services in accordance with the essential health benefits.
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.

26.1-36.8-04. Marketing and sales of individual and association plans.

- 1. All marketing materials related to the offering or sale of an individual or association short-term limited-duration plan must be filed with and approved by the commissioner before the plan is offered for sale in this state.
- 2. Sale of an individual or association short-term limited-duration 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.

SECTION 4. REPEAL. Section 26.1-36-49 of the North Dakota Century Code is repealed.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2073.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 92 Nays 0 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State