



2025 South Dakota Legislature

House Bill 1137

Introduced by: **Representative Mulder**

1 **An Act to establish provisions related to the treatment of pain with non-opioid**
2 **drugs.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That a NEW SECTION be added to chapter 28-6:**

5 The Department of Social Services shall establish a preferred drug list for the
6 medical assistance program. The department may amend the preferred drug list at any
7 time.

8 When establishing or amending the preferred drug list, the department shall ensure
9 that a non-opioid drug approved by the United States Food and Drug Administration for
10 the treatment or management of pain is not disadvantaged or discouraged with respect
11 to coverage relative to any opioid or narcotic drug for the treatment or management of
12 pain on the preferred drug list.

13 This section applies to a non-opioid drug immediately upon its approval by the
14 United States Food and Drug Administration for the treatment or management of pain,
15 regardless of whether the drug has been reviewed by the department for inclusion on the
16 preferred drug list.

17 **Section 2. That a NEW SECTION be added to chapter 58-17:**

18 In establishing and maintaining its formulary, any insurer offering a policy or
19 certificate of health insurance that is delivered, issued for delivery, or renewed in this
20 state, or any self-funded employee benefit plan, to the extent not preempted by federal
21 law, must ensure that a non-opioid drug approved by the United States Food and Drug
22 Administration for the treatment or management of pain is not disadvantaged or
23 discouraged with respect to coverage relative to any opioid or narcotic drug for the
24 treatment or management of pain on the formulary.

1 This section applies to a non-opioid drug immediately upon its approval by the
2 United States Food and Drug Administration for the treatment or management of pain,
3 regardless of whether the drug has been reviewed for inclusion on the formulary.

4 **Section 3. That a NEW SECTION be added to chapter 58-17:**

5 When a health care professional prescribes a non-opioid drug for the treatment of
6 or management of pain, a health insurer, or a self-funded employee benefit plan, to the
7 extent not preempted by federal law, may not deny coverage of the non-opioid drug in
8 favor of an opioid drug.

9 If a policy or certificate of health insurance delivered, issued for delivery, or
10 renewed in this state, or a self-funded employee benefit plan, to the extent not preempted
11 by federal law, restricts coverage of a non-opioid drug for the treatment or management
12 of pain, the prescribing health care professional must be granted an exception to the
13 restriction, if the professional confirms that, based on the professional's clinical judgment,
14 the non-opioid drug is appropriate for the patient's treatment.