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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. **687**

- 02/04/2019 Authored by Bahner, Liebling, Morrison, Demuth, Mann and others
The bill was read for the first time and referred to the Committee on Commerce
- 03/04/2019 Adoption of Report: Re-referred to the Committee on Health and Human Services Policy
- 03/13/2019 Adoption of Report: Amended and re-referred to the Committee on Ways and Means

1.1 A bill for an act

1.2 relating to health; modifying sections relating to prescription drug coverage and

1.3 refills; amending Minnesota Statutes 2018, sections 151.01, subdivision 23;

1.4 151.211, subdivision 2, by adding a subdivision; proposing coding for new law in

1.5 Minnesota Statutes, chapter 62Q; proposing coding for new law as Minnesota

1.6 Statutes, chapter 62W.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. **[62Q.528] DRUG COVERAGE IN EMERGENCY SITUATIONS.**

1.9 A health plan that provides prescription drug coverage must provide coverage for a

1.10 prescription drug dispensed by a pharmacist under section 151.211, subdivision 3, under

1.11 the terms of coverage that would apply had the prescription drug been dispensed according

1.12 to a prescription.

1.13 Sec. 2. **[62W.10] SYNCHRONIZATION.**

1.14 (a) For purposes of this section, "synchronization" means the coordination of prescription

1.15 drug refills for a patient taking two or more medications for one or more chronic conditions,

1.16 to allow the patient's medications to be refilled on the same schedule for a given period of

1.17 time.

1.18 (b) A contract between a pharmacy benefit manager and a pharmacy must allow for

1.19 synchronization of prescription drug refills for a patient on at least one occasion per year,

1.20 if the following criteria are met:

1.21 (1) the prescription drugs are covered under the patient's health plan or have been

1.22 approved by a formulary exceptions process;

2.1 (2) the prescription drugs are maintenance medications as defined by the health plan
2.2 and have one or more refills available at the time of synchronization;

2.3 (3) the prescription drugs are not Schedule II, III, or IV controlled substances;

2.4 (4) the patient meets all utilization management criteria relevant to the prescription drug
2.5 at the time of synchronization;

2.6 (5) the prescription drugs are of a formulation that can be safely split into short-fill
2.7 periods to achieve synchronization; and

2.8 (6) the prescription drugs do not have special handling or sourcing needs that require a
2.9 single, designated pharmacy to fill or refill the prescription.

2.10 (c) When necessary to permit synchronization, the pharmacy benefit manager must apply
2.11 a prorated, daily patient cost-sharing rate to any prescription drug dispensed by a pharmacy
2.12 under this section. The dispensing fee must not be prorated, and all dispensing fees shall
2.13 be based on the number of prescriptions filled or refilled.

2.14 (d) Synchronization may be requested by the patient or by the patient's parent or legal
2.15 guardian. For purposes of this paragraph, "legal guardian" includes but is not limited to a
2.16 guardian of an incapacitated person appointed pursuant to chapter 524.

2.17 Sec. 3. Minnesota Statutes 2018, section 151.01, subdivision 23, is amended to read:

2.18 Subd. 23. **Practitioner.** "Practitioner" means a licensed doctor of medicine, licensed
2.19 doctor of osteopathic medicine duly licensed to practice medicine, licensed doctor of
2.20 dentistry, licensed doctor of optometry, licensed podiatrist, licensed veterinarian, or licensed
2.21 advanced practice registered nurse. For purposes of sections 151.15, subdivision 4; 151.211,
2.22 subdivision 3; 151.252, subdivision 3; 151.37, subdivision 2, paragraphs (b), (e), and (f);
2.23 and 151.461, "practitioner" also means a physician assistant authorized to prescribe, dispense,
2.24 and administer under chapter 147A. For purposes of sections 151.15, subdivision 4; 151.211,
2.25 subdivision 3; 151.252, subdivision 3; 151.37, subdivision 2, paragraph (b); and 151.461,
2.26 "practitioner" also means a dental therapist authorized to dispense and administer under
2.27 chapter 150A.

2.28 Sec. 4. Minnesota Statutes 2018, section 151.211, subdivision 2, is amended to read:

2.29 Subd. 2. **Refill requirements.** Except as provided in subdivision 3, a prescription drug
2.30 order may be refilled only with the written, electronic, or verbal consent of the prescriber
2.31 and in accordance with the requirements of this chapter, the rules of the board, and where
2.32 applicable, section 152.11. The date of such refill must be recorded and initialed upon the

3.1 original prescription drug order, or within the electronically maintained record of the original
3.2 prescription drug order, by the pharmacist, pharmacist intern, or practitioner who refills the
3.3 prescription.

3.4 Sec. 5. Minnesota Statutes 2018, section 151.211, is amended by adding a subdivision to
3.5 read:

3.6 Subd. 3. **Emergency prescription refills.** (a) A pharmacist may, using sound professional
3.7 judgment and in accordance with accepted standards of practice, dispense a legend drug
3.8 without a current prescription drug order from a licensed practitioner if all of the following
3.9 conditions are met:

3.10 (1) the patient has been compliant with taking the medication and has consistently had
3.11 the drug filled or refilled as demonstrated by records maintained by the pharmacy;

3.12 (2) the pharmacy from which the legend drug is dispensed has record of a prescription
3.13 drug order for the drug in the name of the patient who is requesting it, but the prescription
3.14 drug order does not provide for a refill, or the time during which the refills were valid has
3.15 elapsed;

3.16 (3) the pharmacist has tried but is unable to contact the practitioner who issued the
3.17 prescription drug order, or another practitioner responsible for the patient's care, to obtain
3.18 authorization to refill the prescription;

3.19 (4) the drug is essential to sustain the life of the patient or to continue therapy for a
3.20 chronic condition;

3.21 (5) failure to dispense the drug to the patient would result in harm to the health of the
3.22 patient; and

3.23 (6) the drug is not a controlled substance listed in section 152.02, subdivisions 3 to 6,
3.24 except for a controlled substance that has been specifically prescribed to treat a seizure
3.25 disorder, in which case the pharmacist may dispense up to a 72-hour supply.

3.26 (b) If the conditions in paragraph (a) are met, the amount of the drug dispensed by the
3.27 pharmacist to the patient must not exceed a 30-day supply, or the quantity originally
3.28 prescribed, whichever is less, except as provided for controlled substances in paragraph (a),
3.29 clause (6). If the standard unit of dispensing for the drug exceeds a 30-day supply, the
3.30 amount of the drug dispensed or sold must not exceed the standard unit of dispensing.

3.31 (c) A pharmacist shall not dispense or sell the same drug to the same patient, as provided
3.32 in this section, more than one time in any 12-month period.

4.1 (d) A pharmacist must notify the practitioner who issued the prescription drug order not
4.2 later than 72 hours after the drug is sold or dispensed. The pharmacist must request and
4.3 receive authorization before any additional refills may be dispensed. If the practitioner
4.4 declines to provide authorization for additional refills, the pharmacist must inform the patient
4.5 of that fact.

4.6 (e) The record of a drug sold or dispensed under this section shall be maintained in the
4.7 same manner required for prescription drug orders under this section.