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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 3571

03/08/2018 Authored by Peterson, Albright and Halverson
The bill was read for the first time and referred to the Committee on Health and Human Services Reform
03/26/2018 Adoption of Report: Re-referred to the Committee on Health and Human Services Finance
03/29/2018 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time

1.1 A bill for an act
1.2 relating to health; establishing standards for emergency prescription orders;
1.3 modifying requirements for distribution of certain home dialysis supplies; amending
1.4 Minnesota Statutes 2016, sections 151.15, by adding subdivisions; 151.19,
1.5 subdivision 1; 151.46.

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

1.7 Section 1. Minnesota Statutes 2016, section 151.15, is amended by adding a subdivision
1.8 to read:

1.9 Subd. 5. Receipt of emergency prescription orders. A pharmacist, when that pharmacist
1.10 is not present within a licensed pharmacy, may accept a written, verbal, or electronic
1.11 prescription drug order from a practitioner only if:

1.12 (1) the prescription drug order is for an emergency situation where waiting for the
1.13 licensed pharmacy from which the prescription will be dispensed to open would likely cause
1.14 the patient to experience significant physical harm or discomfort;

1.15 (2) the pharmacy from which the prescription drug order will be dispensed is closed for
1.16 business;

1.17 (3) the pharmacist has been designated to be on call for the licensed pharmacy that will
1.18 fill the prescription drug order;

1.19 (4) in the case of an electronic prescription drug order, the order must be received through
1.20 secure and encrypted electronic means;

1.21 (5) the pharmacist takes reasonable precautions to ensure that the prescription drug order
1.22 will be handled in a manner consistent with federal and state statutes regarding the handling
1.23 of protected health information; and

2.1 (6) the pharmacy from which the prescription drug order will be dispensed has relevant  
2.2 and appropriate policies and procedures in place and makes them available to the board  
2.3 upon request.

2.4 Sec. 2. Minnesota Statutes 2016, section 151.15, is amended by adding a subdivision to  
2.5 read:

2.6 Subd. 6. **Processing of emergency prescription orders.** A pharmacist, when that  
2.7 pharmacist is not present within a licensed pharmacy, may access a pharmacy prescription  
2.8 processing system through secure and encrypted electronic means in order to process an  
2.9 emergency prescription accepted pursuant to subdivision 5 only if:

2.10 (1) the pharmacy from which the prescription drug order will be dispensed is closed for  
2.11 business;

2.12 (2) the pharmacist has been designated to be on call for the licensed pharmacy that will  
2.13 fill the prescription drug order;

2.14 (3) the prescription drug order is for a patient of a long-term care facility or a county  
2.15 correctional facility;

2.16 (4) the prescription drug order is processed pursuant to this chapter and rules adopted  
2.17 under this chapter; and

2.18 (5) the pharmacy from which the prescription drug order will be dispensed has relevant  
2.19 and appropriate policies and procedures in place and makes them available to the board  
2.20 upon request.

2.21 Sec. 3. Minnesota Statutes 2016, section 151.19, subdivision 1, is amended to read:

2.22 Subdivision 1. **Pharmacy licensure requirements.** (a) No person shall operate a  
2.23 pharmacy without first obtaining a license from the board and paying any applicable fee  
2.24 specified in section 151.065. The license shall be displayed in a conspicuous place in the  
2.25 pharmacy for which it is issued and expires on June 30 following the date of issue. It is  
2.26 unlawful for any person to operate a pharmacy unless the license has been issued to the  
2.27 person by the board.

2.28 (b) Application for a pharmacy license under this section shall be made in a manner  
2.29 specified by the board.

2.30 (c) No license shall be issued or renewed for a pharmacy located within the state unless  
2.31 the applicant agrees to operate the pharmacy in a manner prescribed by federal and state

3.1 law and according to rules adopted by the board. No license shall be issued for a pharmacy  
3.2 located outside of the state unless the applicant agrees to operate the pharmacy in a manner  
3.3 prescribed by federal law and, when dispensing medications for residents of this state, the  
3.4 laws of this state, and Minnesota Rules.

3.5 (d) No license shall be issued or renewed for a pharmacy that is required to be licensed  
3.6 or registered by the state in which it is physically located unless the applicant supplies the  
3.7 board with proof of such licensure or registration.

3.8 (e) The board shall require a separate license for each pharmacy located within the state  
3.9 and for each pharmacy located outside of the state at which any portion of the dispensing  
3.10 process occurs for drugs dispensed to residents of this state.

3.11 (f) The board shall not issue an initial or renewed license for a pharmacy unless the  
3.12 pharmacy passes an inspection conducted by an authorized representative of the board. In  
3.13 the case of a pharmacy located outside of the state, the board may require the applicant to  
3.14 pay the cost of the inspection, in addition to the license fee in section 151.065, unless the  
3.15 applicant furnishes the board with a report, issued by the appropriate regulatory agency of  
3.16 the state in which the facility is located, of an inspection that has occurred within the 24  
3.17 months immediately preceding receipt of the license application by the board. The board  
3.18 may deny licensure unless the applicant submits documentation satisfactory to the board  
3.19 that any deficiencies noted in an inspection report have been corrected.

3.20 (g) The board shall not issue an initial or renewed license for a pharmacy located outside  
3.21 of the state unless the applicant discloses and certifies:

3.22 (1) the location, names, and titles of all principal corporate officers and all pharmacists  
3.23 who are involved in dispensing drugs to residents of this state;

3.24 (2) that it maintains its records of drugs dispensed to residents of this state so that the  
3.25 records are readily retrievable from the records of other drugs dispensed;

3.26 (3) that it agrees to cooperate with, and provide information to, the board concerning  
3.27 matters related to dispensing drugs to residents of this state;

3.28 (4) that, during its regular hours of operation, but no less than six days per week, for a  
3.29 minimum of 40 hours per week, a toll-free telephone service is provided to facilitate  
3.30 communication between patients in this state and a pharmacist at the pharmacy who has  
3.31 access to the patients' records; the toll-free number must be disclosed on the label affixed  
3.32 to each container of drugs dispensed to residents of this state; and

4.1 (5) that, upon request of a resident of a long-term care facility located in this state, the  
4.2 resident's authorized representative, or a contract pharmacy or licensed health care facility  
4.3 acting on behalf of the resident, the pharmacy will dispense medications prescribed for the  
4.4 resident in unit-dose packaging or, alternatively, comply with section 151.415, subdivision  
4.5 5.

4.6 (h) This subdivision does not apply to a manufacturer licensed under section 151.252,  
4.7 subdivision 1, a wholesale drug distributor licensed under section 151.47, or a third-party  
4.8 logistics provider, to the extent the manufacturer, wholesale drug distributor, or third-party  
4.9 logistics provider is engaged in the distribution of dialysate or devices necessary to perform  
4.10 home peritoneal dialysis on patients with end-stage renal disease, if:

4.11 (1) the manufacturer or its agent leases or owns the licensed manufacturing or wholesaling  
4.12 facility from which the dialysate or devices will be delivered;

4.13 (2) the dialysate is comprised of dextrose or icodextrin and has been approved by the  
4.14 United States Food and Drug Administration;

4.15 (3) the dialysate is stored and delivered in its original, sealed, and unopened  
4.16 manufacturer's packaging;

4.17 (4) the dialysate or devices are delivered only upon:

4.18 (i) receipt of a physician's order by a Minnesota licensed pharmacy; and

4.19 (ii) the review and processing of the prescription by a pharmacist licensed by the state  
4.20 in which the pharmacy is located, who is employed by or under contract to the pharmacy;

4.21 (5) prescriptions, policies, procedures, and records of delivery are maintained by the  
4.22 manufacturer for a minimum of three years and are made available to the board upon request;  
4.23 and

4.24 (6) the manufacturer or the manufacturer's agent delivers the dialysate or devices directly  
4.25 to:

4.26 (i) a patient with end-stage renal disease for whom the prescription was written or the  
4.27 patient's designee, for the patient's self-administration of the dialysis therapy; or

4.28 (ii) a health care provider or institution, for administration or delivery of the dialysis  
4.29 therapy to a patient with end-stage renal disease for whom the prescription was written.

4.30 Sec. 4. Minnesota Statutes 2016, section 151.46, is amended to read:

4.31 **151.46 PROHIBITED DRUG PURCHASES OR RECEIPT.**

5.1 It is unlawful for any person to knowingly purchase or receive a prescription drug from  
5.2 a source other than a person or entity licensed under the laws of the state, except where  
5.3 otherwise provided. Licensed wholesale drug distributors other than pharmacies shall not  
5.4 dispense or distribute prescription drugs directly to patients except for licensed facilities  
5.5 that dispense or distribute home peritoneal dialysis products directly to patients pursuant  
5.6 to section 151.19, subdivision 1, paragraph (h). A person violating the provisions of this  
5.7 section is guilty of a misdemeanor.