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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **864**

02/12/2015 Authored by Sanders, Hoppe, Garofalo, Loonan and Davids
The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform

1.1 A bill for an act
1.2 relating to insurance fraud; regulating response or incident data; providing an
1.3 administrative penalty for insurance fraud; creating a process for deauthorization
1.4 of the right of health care providers to receive certain payments under chapter
1.5 65B; amending Minnesota Statutes 2014, sections 13.82, subdivision 6; 45.0135,
1.6 by adding a subdivision; 169.09, subdivision 13; proposing coding for new law
1.7 in Minnesota Statutes, chapter 45.

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

1.9 Section 1. Minnesota Statutes 2014, section 13.82, subdivision 6, is amended to read:

1.10 Subd. 6. **Response or incident data.** The following data created or collected by
1.11 law enforcement agencies which document the agency's response to a request for service
1.12 including, but not limited to, responses to traffic accidents, or which describe actions
1.13 taken by the agency on its own initiative shall be public government data 30 days after
1.14 the data was created or collected:

- 1.15 (a) date, time and place of the action;
- 1.16 (b) agencies, units of agencies and individual agency personnel participating in the
1.17 action unless the identities of agency personnel qualify for protection under subdivision 17;
- 1.18 (c) any resistance encountered by the agency;
- 1.19 (d) any pursuit engaged in by the agency;
- 1.20 (e) whether any weapons were used by the agency or other individuals;
- 1.21 (f) a brief factual reconstruction of events associated with the action;
- 1.22 (g) names and addresses of witnesses to the agency action or the incident unless the
1.23 identity of any witness qualifies for protection under subdivision 17;
- 1.24 (h) names and addresses of any victims or casualties unless the identities of those
1.25 individuals qualify for protection under subdivision 17;

- 2.1 (i) the name and location of the health care facility to which victims or casualties
 2.2 were taken;
- 2.3 (j) response or incident report number;
- 2.4 (k) dates of birth of the parties involved in a traffic accident;
- 2.5 (l) whether the parties involved were wearing seat belts; and
- 2.6 (m) the alcohol concentration of each driver.

2.7 Sec. 2. Minnesota Statutes 2014, section 45.0135, is amended by adding a subdivision
 2.8 to read:

2.9 Subd. 9. **Administrative penalty for insurance fraud.** (a) In addition to any
 2.10 criminal penalties that may be imposed under section 609.611, on a showing by a
 2.11 preponderance of the evidence that a violation of section 609.611 has occurred, the
 2.12 commissioner may:

2.13 (1) impose an administrative penalty not exceeding \$25,000 for each act of insurance
 2.14 fraud; and

2.15 (2) order restitution to an insurer or self-insured employer of any insurance proceeds
 2.16 paid relating to a fraudulent insurance claim.

2.17 (b) In determining the amount of the administrative penalty, the commissioner
 2.18 must consider:

2.19 (1) the nature, circumstances, extent, gravity, and number of violations;

2.20 (2) the degree of culpability of the violator;

2.21 (3) prior offenses and repeated violations of the violator; and

2.22 (4) any other matter that the commissioner considers appropriate and relevant.

2.23 (c) If an administrative penalty is not paid after all rights of appeal have been
 2.24 waived or exhausted, the commissioner may bring a civil action in a court of competent
 2.25 jurisdiction to collect the administrative penalty, including expenses and litigation costs,
 2.26 reasonable attorney fees, and interest.

2.27 (d) This section does not affect an insurer's right to take independent action to seek
 2.28 recovery against a person that violates this section.

2.29 Sec. 3. [45.0137] DEAUTHORIZATION OF PROVIDERS FROM RECEIVING
 2.30 CERTAIN PAYMENTS UNDER CHAPTER 65B.

2.31 Subdivision 1. **Definitions.** (a) As used in this section, the following terms have
 2.32 the meaning given.

2.33 (b) "Appropriate licensing authority" means the state agency responsible for
 2.34 licensing and discipline of a provider.

3.1 (c) "Commissioner" means the commissioner of commerce.

3.2 (d) "Medical services" means those services eligible for reimbursement under
3.3 section 65B.44, subdivision 2.

3.4 (e) "Provider of medical services" or "provider" means a person or entity that has
3.5 provided medical services.

3.6 Subd. 2. **Deauthorization of providers.** The commissioner, or an appropriate
3.7 licensing authority, may, by order, remove authorization for a provider of medical services
3.8 to demand or request payment for medical services upon finding, after investigation as
3.9 provided in subdivision 3, that the provider:

3.10 (1) has been guilty of professional or other misconduct or incompetency in
3.11 connection with medical services rendered;

3.12 (2) has exceeded the limits of professional competence in providing medical services
3.13 or has knowingly made a false statement or representation as to a material fact in any
3.14 report made in connection with any claim under chapter 65B;

3.15 (3) has solicited, or employed another to solicit for the provider or for another,
3.16 professional treatment, examination, or care of an injured person in connection with any
3.17 claim under chapter 65B;

3.18 (4) has refused to appear before, or to answer upon request of, the commissioner
3.19 or duly authorized officer of an appropriate licensing authority, any legal question, or
3.20 to produce any relevant information concerning conduct in connection with providing
3.21 medical services; or

3.22 (5) has engaged in patterns of billing for medical services that were not provided.

3.23 Subd. 3. **Investigation.** (a) The commissioner may investigate any reports made
3.24 under section 45.0135, or other information in the commissioner's possession, regarding
3.25 providers of medical services engaging in any of the unlawful activities set forth in
3.26 subdivision 2. After conducting an investigation, the commissioner must send to the
3.27 appropriate licensing authority a list of any providers who the commissioner believes may
3.28 have engaged in any of the unlawful activities set forth in subdivision 2 together with a
3.29 description of the grounds for inclusion on the list. Within 45 days of receipt of the list,
3.30 the appropriate licensing authority shall notify the commissioner in writing whether the
3.31 licensing authority confirms that the commissioner has a reasonable basis to proceed
3.32 with notice and a hearing for determining whether any of the listed providers should be
3.33 deauthorized from demanding or requesting any payment for medical services.

3.34 (b) An appropriate licensing authority may also investigate any reports, allegations,
3.35 or other information in its possession regarding providers engaging in any of the unlawful
3.36 activities set forth in subdivision 2. If the appropriate licensing authority conducts an

4.1 investigation, then that authority is responsible for providing notice and an opportunity to
 4.2 be heard to the providers that are subject to deauthorization from demanding or requesting
 4.3 any payment for medical services.

4.4 (c) Hearings under this section must be conducted in accordance with chapter 14 and
 4.5 any other applicable law.

4.6 Sec. 4. Minnesota Statutes 2014, section 169.09, subdivision 13, is amended to read:

4.7 Subd. 13. **Reports confidential; evidence, fee, penalty, appropriation.** (a) All
 4.8 reports and supplemental information required under this section must be for the use of the
 4.9 commissioner of public safety and other appropriate state, federal, county, and municipal
 4.10 governmental agencies for accident analysis purposes, except:

4.11 (1) upon written request, the commissioner of public safety or any law enforcement
 4.12 agency shall disclose the report required under subdivision 8 to:

4.13 (i) any individual involved in the accident, the representative of the individual's
 4.14 estate, or the surviving spouse, or one or more surviving next of kin, or a trustee appointed
 4.15 under section 573.02;

4.16 (ii) any other person injured in person, property, or means of support, or who incurs
 4.17 other pecuniary loss by virtue of the accident;

4.18 (iii) legal counsel of a person described in item (i) or (ii); ~~or~~

4.19 (iv) a representative of the insurer of any person described in item (i) or (ii), including
 4.20 persons under contract with the insurer to provide claims and underwriting information;

4.21 (v) a representative of any insurance agent of a person described in item (i) or (ii);

4.22 (vi) a representative of any insurer of any person described in item (i) or (ii) to which
 4.23 they have applied for coverage;

4.24 (vii) state licensed or authorized victim services programs;

4.25 (viii) radio and television stations licensed by the Federal Communications

4.26 Commission; or

4.27 (ix) newspapers qualified to publish legal notices under applicable state law

4.28 published once a week or more often, available and of interest to the public generally for
 4.29 the dissemination of news;

4.30 (2) the commissioner of public safety shall, upon written request, provide the driver
 4.31 filing a report under subdivision 7 with a copy of the report filed by the driver;

4.32 (3) the commissioner of public safety may verify with insurance companies vehicle
 4.33 insurance information to enforce sections 65B.48, 169.792, 169.793, 169.796, and 169.797;

5.1 (4) the commissioner of public safety shall provide the commissioner of
5.2 transportation the information obtained for each traffic accident involving a commercial
5.3 motor vehicle, for purposes of administering commercial vehicle safety regulations;

5.4 (5) upon specific request, the commissioner of public safety shall provide the
5.5 commissioner of transportation the information obtained regarding each traffic accident
5.6 involving damage to identified state-owned infrastructure, for purposes of debt collection
5.7 under section 161.20, subdivision 4; and

5.8 (6) the commissioner of public safety may give to the United States Department of
5.9 Transportation commercial vehicle accident information in connection with federal grant
5.10 programs relating to safety.

5.11 For the purposes of this subdivision, the following products or publications are not
5.12 newspapers as referred to in this subdivision: those intended primarily for members of a
5.13 particular profession or occupational group; those with the primary purpose of distributing
5.14 advertising; and those with the primary purpose of publishing names and other personal
5.15 identifying information concerning parties to motor vehicle crashes.

5.16 (b) Accident reports and data contained in the reports are not discoverable under any
5.17 provision of law or rule of court. No report shall be used as evidence in any trial, civil or
5.18 criminal, or any action for damages or criminal proceedings arising out of an accident.
5.19 However, the commissioner of public safety shall furnish, upon the demand of any person
5.20 who has or claims to have made a report or upon demand of any court, a certificate
5.21 showing that a specified accident report has or has not been made to the commissioner
5.22 solely to prove compliance or failure to comply with the requirements that the report be
5.23 made to the commissioner.

5.24 (c) Nothing in this subdivision prevents any individual who has made a report under
5.25 this section from providing information to any individuals involved in an accident or their
5.26 representatives or from testifying in any trial, civil or criminal, arising out of an accident,
5.27 as to facts within the individual's knowledge. It is intended by this subdivision to render
5.28 privileged the reports required, but it is not intended to prohibit proof of the facts to
5.29 which the reports relate.

5.30 (d) Disclosing any information contained in any accident report, except as provided
5.31 in this subdivision, section 13.82, subdivision 3 or 6, or other statutes, is a misdemeanor.

5.32 (e) The commissioner of public safety shall charge authorized persons as described
5.33 in paragraph (a) a \$5 fee for a copy of an accident report. Ninety percent of the \$5 fee
5.34 collected under this paragraph must be deposited in the special revenue fund and credited
5.35 to the driver services operating account established in section 299A.705 and ten percent
5.36 must be deposited in the general fund. The commissioner may also furnish an electronic

6.1 copy of the database of accident records, which must not contain personal or private data
6.2 on an individual, to private agencies as provided in paragraph (g), for not less than the cost
6.3 of preparing the copies on a bulk basis as provided in section 13.03, subdivision 3.

6.4 (f) The fees specified in paragraph (e) notwithstanding, the commissioner and law
6.5 enforcement agencies shall charge commercial users who request access to response or
6.6 incident data relating to accidents a fee not to exceed 50 cents per record. "Commercial
6.7 user" is a user who in one location requests access to data in more than five accident
6.8 reports per month, unless the user establishes that access is not for a commercial purpose.
6.9 Of the money collected by the commissioner under this paragraph, 90 percent must be
6.10 deposited in the special revenue fund and credited to the driver services operating account
6.11 established in section 299A.705 and ten percent must be deposited in the general fund.

6.12 (g) The fees in paragraphs (e) and (f) notwithstanding, the commissioner shall
6.13 provide an electronic copy of the accident records database to the public on a case-by-case
6.14 basis using the cost-recovery charges provided for under section 13.03, subdivision
6.15 3. The database provided must not contain personal or private data on an individual.
6.16 However, unless the accident records database includes the vehicle identification number,
6.17 the commissioner shall include the vehicle registration plate number if a private agency
6.18 certifies and agrees that the agency:

6.19 (1) is in the business of collecting accident and damage information on vehicles;

6.20 (2) will use the vehicle registration plate number only for identifying vehicles that
6.21 have been involved in accidents or damaged, to provide this information to persons seeking
6.22 access to a vehicle's history and not for identifying individuals or for any other purpose; and

6.23 (3) will be subject to the penalties and remedies under sections 13.08 and 13.09.