

1.1 A bill for an act

1.2 relating to health; establishing a controlled substances registration; modifying  
1.3 the controlled substances prescription electronic reporting system; appropriating  
1.4 money; amending Minnesota Statutes 2008, sections 152.01, by adding  
1.5 a subdivision; 152.10; 152.11, subdivisions 1, 2, 2a, 2b, 2c, 2d; 152.12,  
1.6 subdivisions 1, 2, 3; 152.125, subdivisions 2, 3, 4; 152.126, as amended;  
1.7 repealing Minnesota Statutes 2008, section 152.12, subdivisions 4, 5.

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

1.9 Section 1. Minnesota Statutes 2008, section 152.01, is amended by adding a  
1.10 subdivision to read:

1.11 Subd. 23. **Practitioner.** "Practitioner" has the meaning given in section 151.01,  
1.12 subdivision 23.

1.13 Sec. 2. Minnesota Statutes 2008, section 152.10, is amended to read:

1.14 **152.10 SALES, PERSONS ELIGIBLE CONTROLLED SUBSTANCE**  
1.15 **REGISTRATION.**

1.16 Subdivision 1. **Registration requirement.** No person other than a licensed  
1.17 pharmacist, assistant pharmacist or pharmacist intern under the supervision of a pharmacist  
1.18 shall sell a stimulant or depressant drug and then only as provided in sections 152.021 to  
1.19 152.12 and 152.0262. (a) Every person who:

1.20 (1) manufactures, distributes, prescribes, or dispenses any controlled substance  
1.21 within the state;

1.22 (2) proposes to engage in the manufacture, distribution, prescription, or dispensing  
1.23 of any controlled substance within the state;

2.1 (3) dispenses or distributes or proposes to dispense or distribute any controlled  
2.2 substance for use in the state by shipping, mailing, or otherwise delivering the controlled  
2.3 substance from a location outside the state; or

2.4 (4) uses or proposes to use controlled substances in the course of a bona fide  
2.5 research project;

2.6 shall obtain a registration issued by the Board of Pharmacy.

2.7 (b) Persons registered by the Board of Pharmacy under this section to manufacture,  
2.8 distribute, prescribe, dispense, store, or conduct research with controlled substances may  
2.9 possess, manufacture, distribute, prescribe, dispense, store, or conduct research with those  
2.10 substances to the extent authorized by their registration and in conformity with this section.

2.11 (c) Except as otherwise provided by law, the following persons and entities shall not  
2.12 be required to register under this section and may lawfully possess controlled substances  
2.13 under this chapter:

2.14 (1) an agent or employee of any registered manufacturer, registered drug wholesaler,  
2.15 or registered pharmacy while acting in the course of employment only;

2.16 (2) a common carrier or an employee whose possession of any controlled substance  
2.17 is in the usual course of the person's business or employment;

2.18 (3) a licensed hospital or other licensed institutions wherein sick and injured persons  
2.19 or animals are cared for or treated or their employees who are working in the course of  
2.20 employment;

2.21 (4) a licensed or registered health care professional who acts as the authorized  
2.22 agent of a practitioner and who administers controlled substances at the direction of the  
2.23 practitioner, provided that the practitioner is authorized to prescribe controlled substances  
2.24 under section 152.12;

2.25 (5) an analytical laboratory or employee acting within the course of employment,  
2.26 when conducting an anonymous analysis service when such laboratory is registered by the  
2.27 federal Drug Enforcement Administration;

2.28 (6) a person in possession of any controlled substance prescribed for that person  
2.29 under section 152.12, subdivision 1; or

2.30 (7) the owner of an animal for which a controlled substance has been prescribed  
2.31 under section 152.12, subdivision 2.

2.32 Nothing in this section shall prohibit a person, for whom a controlled substance has been  
2.33 dispensed in accordance with a prescription issued under section 152.12, from designating  
2.34 a family member, caregiver, or other individual to handle the controlled substance for the  
2.35 purpose of assisting the person in obtaining or administering the controlled substance.

3.1 (d) A separate registration shall be required at each principal place of business  
3.2 or professional practice where the applicant manufactures, distributes, prescribes, or  
3.3 dispenses controlled substances, except an office used by a practitioner who is registered  
3.4 at another location where controlled substances are prescribed but neither administered  
3.5 nor otherwise dispensed as a regular part of the professional practice of the practitioner at  
3.6 the practitioner's office, and where no supplies of controlled substances are maintained.

3.7 (e) The Board of Pharmacy may inspect the establishment of a registrant or applicant  
3.8 for registration according to the board's rule.

3.9 (f) The board may require a registrant to submit documents or written statements  
3.10 of fact relevant to a registration that the board deems necessary to determine whether  
3.11 the registration should be granted or denied. The failure of the registrant to provide the  
3.12 documents or statements within a reasonable time after being requested to do so shall be  
3.13 deemed to be a waiver by the registrant of the opportunity to present the documents or  
3.14 statements for consideration by the board in granting or denying the registration.

3.15 (g) The failure to renew the controlled substance registration on a timely basis shall  
3.16 cause the registration to be automatically forfeited.

3.17 Subd. 2. **Registration.** (a) The Board of Pharmacy shall register an applicant to  
3.18 manufacture, dispense, prescribe, or distribute controlled substances included in section  
3.19 152.02, subdivisions 3 to 6, unless it determines that the issuance of that registration  
3.20 would be inconsistent with the public interest. In determining the public interest, the  
3.21 board shall consider the following factors:

3.22 (1) maintenance of effective controls against diversion of controlled substances into  
3.23 other than legitimate medical, scientific, or industrial channels;

3.24 (2) compliance with applicable federal, state, and local law;

3.25 (3) any convictions of the applicant under any federal or state laws relating to any  
3.26 controlled substance;

3.27 (4) past experience in the manufacture or distribution of controlled substances, and  
3.28 the existence in the applicant's establishment of effective controls against diversion;

3.29 (5) furnishing by the applicant of false or fraudulent material in any application  
3.30 filed under this chapter;

3.31 (6) suspension or revocation of the applicant's federal registration to manufacture,  
3.32 distribute, prescribe, or dispense controlled substances as authorized by federal law; and

3.33 (7) any other factor relevant to and consistent with the public health and safety.

3.34 (b) Registration under paragraph (a) does not entitle a registrant to manufacture,  
3.35 dispense, prescribe, and distribute controlled substances included in section 152.02,  
3.36 subdivision 2. Manufacturing, dispensing, prescribing, and distribution of controlled

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4.1 substances included in section 151.02, subdivision 2, may only occur as part of a bona  
4.2 fide research project under section 152.12, subdivision 3, and as allowed under federal  
4.3 law and regulations.

4.4 (c) Practitioners must be registered under this section in order to dispense or to  
4.5 prescribe any controlled substances included in section 152.02, subdivisions 3 to 6.

4.6 Subd. 3. **Revocation and suspension of registration.** (a) A registration under this  
4.7 section to manufacture, dispense, prescribe, or distribute a controlled substance may be  
4.8 suspended or revoked by the Board of Pharmacy upon a finding that the registrant:

4.9 (1) has furnished false or fraudulent material information in any application filed  
4.10 under this section;

4.11 (2) has been convicted of a felony pursuant to any state or federal law relating to  
4.12 any controlled substance;

4.13 (3) has had the registrant's federal controlled substance registration suspended or  
4.14 revoked to manufacture, distribute, prescribe, or dispense controlled substances;

4.15 (4) has had the registrant's state license to practice the registrant's profession  
4.16 suspended or revoked by the applicable governing health licensing board; or

4.17 (5) has had the registrant's state license to practice the registrant's profession placed  
4.18 on conditional status by the applicable health licensing board when the conditions prohibit  
4.19 the registrant from prescribing, administering, or dispensing controlled substances.

4.20 (b) The Board of Pharmacy may limit revocation or suspension of a registration  
4.21 to the particular controlled substance with respect to which grounds for revocation or  
4.22 suspension exist.

4.23 Sec. 3. Minnesota Statutes 2008, section 152.11, subdivision 1, is amended to read:

4.24 Subdivision 1. **Written prescription requirement for Schedule II controlled**  
4.25 **substances.** No person may dispense a controlled substance included in Schedule II  
4.26 of section 152.02 without a prescription written by a doctor of medicine, a doctor of  
4.27 osteopathy licensed to practice medicine, a doctor of dental surgery, a doctor of dental  
4.28 medicine, a doctor of podiatry, or a doctor of veterinary medicine, lawfully licensed to  
4.29 prescribe in this state and registered under section 152.10 or by a practitioner licensed  
4.30 to prescribe controlled substances by the state in which the prescription is issued, and  
4.31 having a current federal Drug Enforcement Administration registration number. Provided  
4.32 that in emergency situations, as authorized by federal law, such drug may be dispensed  
4.33 upon oral prescription reduced promptly to writing and filed by the pharmacist. Such  
4.34 prescriptions shall be retained in conformity with section 152.101. No prescription for  
4.35 a Schedule II substance may be refilled.

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5.1 For the purposes of this chapter, a written prescription or oral prescription, which  
5.2 shall be reduced to writing, for a controlled substance in Schedule II, III, IV or V is void  
5.3 unless (1) it is written in ink and contains the name and address of the person for whose  
5.4 use it is intended; (2) it states the amount of the controlled substance to be compounded or  
5.5 dispensed, with directions for its use; (3) if a written prescription, it contains the signature,  
5.6 address and ~~federal registry number~~ and state controlled substance registration numbers of  
5.7 the prescriber and a designation of the branch of the healing art pursued by the prescriber;  
5.8 and if an oral prescription, the name and address of the prescriber and a designation  
5.9 of the prescriber's branch of the healing art; and (4) it shows the date when signed by  
5.10 the prescriber, or the date of acceptance in the pharmacy if an oral prescription. Every  
5.11 licensed pharmacist who compounds any such prescription shall retain such prescription  
5.12 in a file for a period of not less than two years, open to inspection by any officer of  
5.13 the state, county, or municipal government, whose duty it is to aid and assist with the  
5.14 enforcement of this chapter. Every such pharmacist shall distinctly label the container  
5.15 with the directions contained in the prescription for the use thereof.

5.16 Sec. 4. Minnesota Statutes 2008, section 152.11, subdivision 2, is amended to read:

5.17 Subd. 2. **Written or oral prescription requirement for Schedule III ~~or~~, IV, or**  
5.18 **V controlled substances.** No person may dispense a controlled substance included in  
5.19 Schedule III or IV of section 152.02 or a controlled substance included Schedule V of  
5.20 section 152.02 that is also a legend drug, without a written or oral prescription from  
5.21 a doctor of medicine, a doctor of osteopathy licensed to practice medicine, a doctor of  
5.22 dental surgery, a doctor of dental medicine, a doctor of podiatry, a doctor of optometry  
5.23 limited to Schedule IV, or a doctor of veterinary medicine, lawfully licensed to prescribe  
5.24 in this state or from a practitioner licensed to prescribe controlled substances by the  
5.25 state in which the prescription is issued, and having a current federal drug enforcement  
5.26 administration registration number. Such prescription may not be dispensed or refilled  
5.27 except with the written or verbal consent of the prescriber, and in no event more than six  
5.28 months after the date on which such prescription was issued and no such prescription may  
5.29 be refilled more than five times.

5.30 Sec. 5. Minnesota Statutes 2008, section 152.11, subdivision 2a, is amended to read:

5.31 Subd. 2a. **Federal and state registration number exemption.** A prescription  
5.32 need not bear a federal drug enforcement administration or state controlled substance  
5.33 registration number that authorizes the prescriber to prescribe controlled substances if the

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6.1 drug prescribed is not a controlled substance in schedule II, III, IV, or V. No person shall  
6.2 impose a requirement inconsistent with this subdivision.

6.3 Sec. 6. Minnesota Statutes 2008, section 152.11, subdivision 2b, is amended to read:

6.4 Subd. 2b. **Restriction on release of federal and state registration number**  
6.5 **numbers.** No person or entity may offer for sale, sell, lease, or otherwise release a federal  
6.6 drug enforcement administration registration number or a registration number issued  
6.7 under section 152.10 for any reason, except for drug enforcement purposes authorized  
6.8 by this chapter and the federal controlled substances registration system. For purposes  
6.9 of this section, an entity includes a state governmental agency or regulatory board, a  
6.10 health plan company as defined under section 62Q.01, subdivision 4, a managed care  
6.11 organization as defined under section 62Q.01, subdivision 5, or any other entity that  
6.12 maintains prescription data.

6.13 Sec. 7. Minnesota Statutes 2008, section 152.11, subdivision 2c, is amended to read:

6.14 Subd. 2c. **Restriction on use of federal and state registration number numbers.**  
6.15 No entity may use a federal drug enforcement administration registration number or  
6.16 a registration number issued under section 152.10 to identify or monitor the prescribing  
6.17 practices of a prescriber to whom that number has been assigned, except for drug  
6.18 enforcement purposes authorized by this chapter and the federal controlled substances  
6.19 registration system. For purposes of this section, an entity includes a health plan company  
6.20 as defined under section 62Q.01, subdivision 4, a managed care organization as defined  
6.21 under section 62Q.01, subdivision 5, or any other entity that maintains prescription data.

6.22 Sec. 8. Minnesota Statutes 2008, section 152.11, subdivision 2d, is amended to read:

6.23 Subd. 2d. **Identification requirement for ~~schedule II or III~~ certain controlled**  
6.24 **substance prescriptions.** ~~(a)~~ No person may dispense a controlled substance ~~included in~~  
6.25 ~~schedule II or III~~ prescription that is required to be reported to the controlled substance  
6.26 prescription electronic reporting system established under section 152.126, without  
6.27 requiring the person purchasing the controlled substance, who need not be the person for  
6.28 whom the controlled substance prescription is written, to present valid photographic  
6.29 identification, unless the person purchasing the controlled substance, or if applicable the  
6.30 person for whom the controlled substance prescription is written, is known to the dispenser.  
6.31 ~~(b) This subdivision applies only to purchases of controlled substances that are not~~  
6.32 ~~covered, in whole or in part, by a health plan company or other third-party payor. The~~  
6.33 ~~Board of Pharmacy shall report to the legislature by July 1, 2009, on the effect of this~~

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7.1 ~~subdivision. The board shall include in the report the incidence of complaints, if any,~~  
7.2 ~~generated by the requirements of this subdivision and whether this subdivision is creating~~  
7.3 ~~barriers to pharmaceutical access.~~

7.4 Sec. 9. Minnesota Statutes 2008, section 152.12, subdivision 1, is amended to read:

7.5 Subdivision 1. **Prescribing, dispensing, administering controlled substances in**  
7.6 **schedules II through V.** A licensed doctor of medicine, a doctor of osteopathy, duly  
7.7 licensed to practice medicine, a doctor of dental surgery, a doctor of dental medicine, a  
7.8 licensed doctor of podiatry, or a licensed doctor of optometry limited to schedules IV  
7.9 and V, and in the course of professional practice only, may prescribe, administer, and  
7.10 dispense a controlled substance included in Schedules II through V of section 152.02, may  
7.11 cause the same to be administered by a nurse, an intern or an assistant under the direction  
7.12 and supervision of the doctor, and may cause a person who is an appropriately certified  
7.13 and licensed health care professional to prescribe and administer the same within the  
7.14 expressed legal scope of the person's practice as defined in Minnesota Statutes. Any  
7.15 person authorized to prescribe or dispense controlled substances under this subdivision  
7.16 must also be registered under section 152.10.

7.17 Sec. 10. Minnesota Statutes 2008, section 152.12, subdivision 2, is amended to read:

7.18 Subd. 2. **Doctor of veterinary medicine.** A licensed doctor of veterinary medicine,  
7.19 in good faith, and in the course of professional practice only, and not for use by a human  
7.20 being, may prescribe, administer, and dispense a controlled substance included in  
7.21 schedules II through V of section 152.02, and may cause the same to be administered by  
7.22 an assistant under the direction and supervision of the doctor. Any person authorized to  
7.23 prescribe or dispense controlled substances under this subdivision must also be registered  
7.24 under section 152.10.

7.25 Sec. 11. Minnesota Statutes 2008, section 152.12, subdivision 3, is amended to read:

7.26 Subd. 3. **Research project use of controlled substances.** Any qualified person  
7.27 may use controlled substances in the course of a bona fide research project but cannot  
7.28 administer or dispense such drugs to human beings unless such drugs are prescribed,  
7.29 dispensed and administered by a person lawfully authorized to do so. Every person  
7.30 who engages in research involving the use of such substances ~~shall apply annually~~  
7.31 ~~for registration by~~ must register with the state Board of Pharmacy ~~provided that such~~  
7.32 ~~registration shall not be required if the person is covered by and has complied with federal~~  
7.33 ~~laws covering such research projects~~ under section 152.10.

8.1 Sec. 12. Minnesota Statutes 2008, section 152.125, subdivision 2, is amended to read:

8.2 Subd. 2. **Prescription and administration of controlled substances for**  
8.3 **intractable pain.** Notwithstanding any other provision of this chapter, a ~~physician~~  
8.4 practitioner lawfully licensed to prescribe controlled substances in the state and registered  
8.5 under section 152.10 may prescribe or administer a controlled substance in schedules  
8.6 II to V of section 152.02 to an individual in the course of the ~~physician's~~ practitioner's  
8.7 treatment of the individual for a diagnosed condition causing intractable pain. No  
8.8 ~~physician practitioner~~ shall be subject to disciplinary action by ~~the Board of Medical~~  
8.9 ~~Practice~~ a health licensing board for appropriately prescribing or administering a  
8.10 controlled substance in schedules II to V of section 152.02 in the course of treatment of an  
8.11 individual for intractable pain, provided the ~~physician practitioner~~ practitioner keeps accurate records  
8.12 of the purpose, use, prescription, and disposal of controlled substances, writes accurate  
8.13 prescriptions, and prescribes medications in conformance with ~~the chapter 147~~ of law  
8.14 under which the practitioner is licensed.

8.15 Sec. 13. Minnesota Statutes 2008, section 152.125, subdivision 3, is amended to read:

8.16 Subd. 3. **Limits on applicability.** This section does not apply to:

8.17 (1) a ~~physician's~~ practitioner's treatment of an individual for chemical dependency  
8.18 resulting from the use of controlled substances in schedules II to V of section 152.02;

8.19 (2) the prescription or administration of controlled substances in schedules II to V of  
8.20 section 152.02 to an individual whom the ~~physician practitioner~~ practitioner knows to be using the  
8.21 controlled substances for nontherapeutic purposes;

8.22 (3) the prescription or administration of controlled substances in schedules II to V of  
8.23 section 152.02 for the purpose of terminating the life of an individual having intractable  
8.24 pain; or

8.25 (4) the prescription or administration of a controlled substance in schedules II to V  
8.26 of section 152.02 that is not a controlled substance approved by the United States Food  
8.27 and Drug Administration for pain relief.

8.28 Sec. 14. Minnesota Statutes 2008, section 152.125, subdivision 4, is amended to read:

8.29 Subd. 4. **Notice of risks.** Prior to treating an individual for intractable pain in  
8.30 accordance with subdivision 2, a ~~physician practitioner~~ practitioner shall discuss with the individual  
8.31 the risks associated with the controlled substances in schedules II to V of section 152.02 to  
8.32 be prescribed or administered in the course of the ~~physician's~~ practitioner's treatment of an  
8.33 individual, and document the discussion in the individual's record.

9.1 Sec. 15. Minnesota Statutes 2008, section 152.126, as amended by Laws 2009, chapter  
9.2 79, article 11, sections 9, 10, and 11, is amended to read:

9.3 **152.126 ~~SCHEDULE H AND H~~ CONTROLLED SUBSTANCES**  
9.4 **PRESCRIPTION ELECTRONIC REPORTING SYSTEM.**

9.5 Subdivision 1. **Definitions.** For purposes of this section, the terms defined in this  
9.6 subdivision have the meanings given.

9.7 (a) "Board" means the Minnesota State Board of Pharmacy established under  
9.8 chapter 151.

9.9 (b) "Controlled substances" means those substances listed in section 152.02,  
9.10 subdivisions 3 to 5, and those substances defined by the board pursuant to section 152.02,  
9.11 subdivisions 7, 8, and 12.

9.12 (c) "Dispense" or "dispensing" has the meaning given in section 151.01, subdivision  
9.13 30. Dispensing does not include the direct administering of a controlled substance to a  
9.14 patient by a licensed health care professional.

9.15 (d) "Dispenser" means a person authorized by law to dispense a controlled substance,  
9.16 pursuant to a valid prescription. For the purposes of this section, a dispenser does not  
9.17 include a licensed hospital pharmacy that distributes controlled substances for inpatient  
9.18 hospital care or a veterinarian who is dispensing prescriptions under section 156.18.

9.19 (e) "Prescriber" means a licensed health care professional who is authorized to  
9.20 prescribe a controlled substance under section 152.12, subdivision 1.

9.21 (f) "Prescription" has the meaning given in section 151.01, subdivision 16.

9.22 Subd. 1a. **Treatment of intractable pain.** This section is not intended to limit or  
9.23 interfere with the legitimate prescribing of controlled substances for pain. No prescriber  
9.24 shall be subject to disciplinary action by a health-related licensing board for prescribing a  
9.25 controlled substance according to the provisions of section 152.125.

9.26 Subd. 2. **Prescription electronic reporting system.** (a) The board shall establish  
9.27 by January 1, 2010, an electronic system for reporting the information required under  
9.28 subdivision 4 for all controlled substances dispensed within the state.

9.29 (b) The board may contract with a vendor for the purpose of obtaining technical  
9.30 assistance in the design, implementation, operation, and maintenance of the electronic  
9.31 reporting system.

9.32 Subd. 3. **Prescription Electronic Reporting Advisory Committee.** (a) The  
9.33 board shall convene an advisory committee. The committee must include at least one  
9.34 representative of:

9.35 (1) the Department of Health;

9.36 (2) the Department of Human Services;

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- 10.1 (3) each health-related licensing board that licenses prescribers;
- 10.2 (4) a professional medical association, which may include an association of pain
- 10.3 management and chemical dependency specialists;
- 10.4 (5) a professional pharmacy association;
- 10.5 (6) a professional nursing association;
- 10.6 (7) a professional dental association;
- 10.7 (8) a consumer privacy or security advocate; and
- 10.8 (9) a consumer or patient rights organization.

10.9 (b) The advisory committee shall advise the board on the development and operation  
10.10 of the electronic reporting system, including, but not limited to:

- 10.11 (1) technical standards for electronic prescription drug reporting;
- 10.12 (2) proper analysis and interpretation of prescription monitoring data; and
- 10.13 (3) an evaluation process for the program.

10.14 ~~(c) The Board of Pharmacy, after consultation with the advisory committee, shall~~  
10.15 ~~present recommendations and draft legislation on the issues addressed by the advisory~~  
10.16 ~~committee under paragraph (b), to the legislature by December 15, 2007.~~

10.17 Subd. 4. **Reporting requirements; notice.** (a) Each dispenser must submit the  
10.18 following data to the board or its designated vendor, subject to the notice required under  
10.19 paragraph (d):

- 10.20 (1) name of the prescriber;
- 10.21 (2) national provider identifier of the prescriber;
- 10.22 (3) name of the dispenser;
- 10.23 (4) national provider identifier of the dispenser;
- 10.24 (5) prescription number;
- 10.25 (6) name of the patient for whom the prescription was written;
- 10.26 (7) address of the patient for whom the prescription was written;
- 10.27 (8) date of birth of the patient for whom the prescription was written;
- 10.28 (9) date the prescription was written;
- 10.29 (10) date the prescription was filled;
- 10.30 (11) name and strength of the controlled substance;
- 10.31 (12) quantity of controlled substance prescribed;
- 10.32 (13) quantity of controlled substance dispensed; and
- 10.33 (14) number of days supply.

10.34 (b) The dispenser must submit the required information by a procedure and in a  
10.35 format established by the board. The board may allow dispensers to omit data listed in this  
10.36 subdivision or may require the submission of data not listed in this subdivision provided

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11.1 the omission or submission is necessary for the purpose of complying with the electronic  
11.2 reporting or data transmission standards of the American Society for Automation in  
11.3 Pharmacy, the National Council on Prescription Drug Programs, or other relevant national  
11.4 standard-setting body.

11.5 (c) A dispenser is not required to submit this data for those controlled substance  
11.6 prescriptions dispensed for:

11.7 (1) individuals residing in licensed skilled nursing or intermediate care facilities;

11.8 (2) individuals receiving assisted living services under chapter 144G or through a  
11.9 medical assistance home and community-based waiver;

11.10 (3) individuals receiving medication intravenously;

11.11 (4) individuals receiving hospice and other palliative or end-of-life care; and

11.12 (5) individuals receiving services from a home care provider regulated under chapter  
11.13 144A.

11.14 (d) A dispenser must not submit data under this subdivision unless a conspicuous  
11.15 notice of the reporting requirements of this section is given to the patient for whom the  
11.16 prescription was written.

11.17 Subd. 5. **Use of data by board.** (a) The board shall develop and maintain a database  
11.18 of the data reported under subdivision 4. The board shall maintain data that could identify  
11.19 an individual prescriber or dispenser in encrypted form. The database may be used by  
11.20 permissible users identified under subdivision 6 for the identification of:

11.21 (1) individuals receiving prescriptions for controlled substances from prescribers  
11.22 who subsequently obtain controlled substances from dispensers in quantities or with a  
11.23 frequency inconsistent with generally recognized standards of use for those controlled  
11.24 substances, including standards accepted by national and international pain management  
11.25 associations; and

11.26 (2) individuals presenting forged or otherwise false or altered prescriptions for  
11.27 controlled substances to dispensers.

11.28 (b) No permissible user identified under subdivision 6 may access the database  
11.29 for the sole purpose of identifying prescribers of controlled substances for unusual or  
11.30 excessive prescribing patterns without a valid search warrant or court order.

11.31 (c) No personnel of a state or federal occupational licensing board or agency may  
11.32 access the database for the purpose of obtaining information to be used to initiate or  
11.33 substantiate a disciplinary action against a prescriber.

11.34 (d) Data reported under subdivision 4 shall be retained by the board in the database  
11.35 for a 12-month period, and shall be removed from the database no later than 12 months  
11.36 from ~~the date~~ the last day of the month during which the data was received.

12.1 Subd. 6. **Access to reporting system data.** (a) Except as indicated in this  
12.2 subdivision, the data submitted to the board under subdivision 4 is private data on  
12.3 individuals as defined in section 13.02, subdivision 12, and not subject to public disclosure.

12.4 (b) Except as specified in subdivision 5, the following persons shall be considered  
12.5 permissible users and may access the data submitted under subdivision 4 in the same or  
12.6 similar manner, and for the same or similar purposes, as those persons who are authorized  
12.7 to access similar private data on individuals under federal and state law:

12.8 (1) a prescriber or an agent or employee of the prescriber to whom the prescriber has  
12.9 delegated the task of accessing the data, to the extent the information relates specifically to  
12.10 a current patient, to whom the prescriber is prescribing or considering prescribing any  
12.11 controlled substance and with the provision that the prescriber remains responsible for the  
12.12 use or misuse of data accessed by a delegated agent or employee;

12.13 (2) a dispenser or an agent or employee of the dispenser to whom the dispenser has  
12.14 delegated the task of accessing the data, to the extent the information relates specifically  
12.15 to a current patient to whom that dispenser is dispensing or considering dispensing any  
12.16 controlled substance and with the provision that the dispenser remains responsible for the  
12.17 use or misuse of data accessed by a delegated agent or employee;

12.18 (3) an individual who is the recipient of a controlled substance prescription for  
12.19 which data was submitted under subdivision 4, or a guardian of the individual, parent or  
12.20 guardian of a minor, or health care agent of the individual acting under a health care  
12.21 directive under chapter 145C;

12.22 (4) personnel of the board specifically assigned to conduct a bona fide investigation  
12.23 of a specific licensee;

12.24 (5) personnel of the board engaged in the collection of controlled substance  
12.25 prescription information as part of the assigned duties and responsibilities under this  
12.26 section;

12.27 (6) authorized personnel of a vendor under contract with the board who are engaged  
12.28 in the design, implementation, operation, and maintenance of the electronic reporting  
12.29 system as part of the assigned duties and responsibilities of their employment, provided  
12.30 that access to data is limited to the minimum amount necessary to carry out such duties  
12.31 and responsibilities;

12.32 (7) federal, state, and local law enforcement authorities acting pursuant to a valid  
12.33 search warrant; and

12.34 (8) personnel of the medical assistance program assigned to use the data collected  
12.35 under this section to identify recipients whose usage of controlled substances may warrant

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13.1 restriction to a single primary care physician, a single outpatient pharmacy, or a single  
13.2 hospital.

13.3 For purposes of clause (3), access by an individual includes persons in the definition  
13.4 of an individual under section 13.02.

13.5 (c) Any permissible user identified in paragraph (b), who directly accesses  
13.6 the data electronically, shall implement and maintain a comprehensive information  
13.7 security program that contains administrative, technical, and physical safeguards that  
13.8 are appropriate to the user's size and complexity, and the sensitivity of the personal  
13.9 information obtained. The permissible user shall identify reasonably foreseeable internal  
13.10 and external risks to the security, confidentiality, and integrity of personal information  
13.11 that could result in the unauthorized disclosure, misuse, or other compromise of the  
13.12 information and assess the sufficiency of any safeguards in place to control the risks.

13.13 (d) The board shall not release data submitted under this section unless it is provided  
13.14 with evidence, satisfactory to the board, that the person requesting the information is  
13.15 entitled to receive the data.

13.16 (e) The board shall not release the name of a prescriber without the written consent  
13.17 of the prescriber or a valid search warrant or court order. The board shall provide a  
13.18 mechanism for a prescriber to submit to the board a signed consent authorizing the release  
13.19 of the prescriber's name when data containing the prescriber's name is requested.

13.20 (f) The board shall maintain a log of all persons who access the data and shall ensure  
13.21 that any permissible user complies with paragraph (c) prior to attaining direct access to  
13.22 the data.

13.23 (g) Section 13.05, subdivision 6, shall apply to any contract the board enters into  
13.24 pursuant to subdivision 2. A vendor shall not use data collected under this section for  
13.25 any purpose not specified in this section.

13.26 **Subd. 7. Disciplinary action.** (a) A dispenser who knowingly fails to submit data to  
13.27 the board as required under this section is subject to disciplinary action by the appropriate  
13.28 health-related licensing board.

13.29 (b) A prescriber or dispenser authorized to access the data who knowingly discloses  
13.30 the data in violation of state or federal laws relating to the privacy of health care data  
13.31 shall be subject to disciplinary action by the appropriate health-related licensing board,  
13.32 and appropriate civil penalties.

13.33 **Subd. 8. Evaluation and reporting.** (a) The board shall evaluate the prescription  
13.34 electronic reporting system to determine if the system is negatively impacting appropriate  
13.35 prescribing practices of controlled substances. The board may contract with a vendor to  
13.36 design and conduct the evaluation.

14.1 (b) The board shall submit the evaluation of the system to the legislature by ~~January~~  
14.2 July 15, 2011.

14.3 Subd. 9. **Immunity from liability; no requirement to obtain information.** (a) A  
14.4 pharmacist, prescriber, or other dispenser making a report to the program in good faith  
14.5 under this section is immune from any civil, criminal, or administrative liability, which  
14.6 might otherwise be incurred or imposed as a result of the report, or on the basis that the  
14.7 pharmacist or prescriber did or did not seek or obtain or use information from the program.

14.8 (b) Nothing in this section shall require a pharmacist, prescriber, or other dispenser  
14.9 to obtain information about a patient from the program, and the pharmacist, prescriber,  
14.10 or other dispenser, if acting in good faith, is immune from any civil, criminal, or  
14.11 administrative liability that might otherwise be incurred or imposed for requesting,  
14.12 receiving, or using information from the program.

14.13 Sec. 16. **CONTROLLED SUBSTANCE REGISTRATION FUND ESTABLISHED**  
14.14 **AND APPROPRIATIONS MADE.**

14.15 (a) The controlled substance account is created in the state government special  
14.16 revenue fund. All fees collected under Minnesota Statutes, section 152.10, shall be  
14.17 deposited into the account.

14.18 (b) Money in the account is appropriated to the Board of Pharmacy for the purpose  
14.19 of:

14.20 (1) administering the controlled substance prescription electronic reporting system  
14.21 established under Minnesota Statutes, section 152.126; and

14.22 (2) administering and enforcing the registration provisions of Minnesota Statutes,  
14.23 section 152.10.

14.24 (c) Money in the account is appropriated to the commissioner of human services for  
14.25 the purpose of chemical dependency treatment.

14.26 Sec. 17. **REPEALER.**

14.27 Minnesota Statutes 2008, section 152.12, subdivisions 4 and 5, are repealed.