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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2532

02/27/2012 Authored by Barrett, Greiling, Gottwalt and Abeler
The bill was read for the first time and referred to the Committee on Health and Human Services Reform
03/22/2012 Adoption of Report: Pass and Read Second Time
04/17/2012 Calendar for the Day
Read Third Time
Passed by the House and transmitted to the Senate

1.1 A bill for an act
1.2 relating to health; allowing the electronic prescribing of controlled substances;
1.3 amending Minnesota Statutes 2010, section 152.11.

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

1.5 Section 1. Minnesota Statutes 2010, section 152.11, is amended to read:

1.6 152.11 WRITTEN OR ORAL PRESCRIPTIONS, REQUISITES.

1.7 Subdivision 1. ~~Written General~~ prescription requirement requirements for
1.8 ~~Schedule H~~ controlled substances. (a) A written prescription or an oral prescription
1.9 reduced to writing, when issued for a controlled substance in Schedule II, III, IV, or V,
1.10 is void unless (1) it is written in ink and contains the name and address of the person
1.11 for whose use it is intended; (2) it states the amount of the controlled substance to be
1.12 compounded or dispensed, with directions for its use; (3) if a written prescription, it
1.13 contains the handwritten signature, address, and federal registry number of the prescriber
1.14 and a designation of the branch of the healing art pursued by the prescriber; and if an oral
1.15 prescription, the name and address of the prescriber and a designation of the prescriber's
1.16 branch of the healing art; and (4) it shows the date when signed by the prescriber, or the
1.17 date of acceptance in the pharmacy if an oral prescription.

1.18 (b) An electronic prescription for a controlled substance in Schedule II, III, IV, or V
1.19 is void unless it complies with the standards established pursuant to section 62J.497 and
1.20 with those portions of Code of Federal Regulations, title 21, parts 1300, 1304, 1306 and
1.21 1311 that pertain to electronic prescriptions.

1.22 (c) A prescription for a controlled substance in Schedule II, III, IV, or V that is
1.23 transmitted by facsimile, either computer to facsimile machine or facsimile machine to

2.1 facsimile machine, is void unless it complies with the applicable requirements of Code of
2.2 Federal Regulations, title 21, part 1306.

2.3 (d) Every licensed pharmacy that dispenses a controlled substance prescription shall
2.4 retain the original prescription in a file for a period of not less than two years, open to
2.5 inspection by any officer of the state, county, or municipal government whose duty it is to
2.6 aid and assist with the enforcement of this chapter. An original electronic or facsimile
2.7 prescription may be stored in an electronic database, provided that the database provides a
2.8 means by which original prescriptions can be retrieved, as transmitted to the pharmacy, for
2.9 a period of not less than two years.

2.10 (e) Every licensed pharmacy shall distinctly label the container in which a controlled
2.11 substance is dispensed with the directions contained in the prescription for the use of
2.12 that controlled substance.

2.13 Subd. 1a. **Prescription requirements for Schedule II controlled substances.** No
2.14 person may dispense a controlled substance included in Schedule II of section 152.02
2.15 without a prescription ~~written~~ issued by a doctor of medicine, a doctor of osteopathy
2.16 licensed to practice medicine, a doctor of dental surgery, a doctor of dental medicine, a
2.17 doctor of podiatry, or a doctor of veterinary medicine, lawfully licensed to prescribe in this
2.18 state or by a practitioner licensed to prescribe controlled substances by the state in which
2.19 the prescription is issued, and having a current federal Drug Enforcement Administration
2.20 registration number. The prescription must either be printed or written in ink and contain
2.21 the handwritten signature of the prescriber or be transmitted electronically or by facsimile
2.22 as permitted under subdivision 1. Provided that in emergency situations, as authorized
2.23 by federal law, such drug may be dispensed upon oral prescription reduced promptly to
2.24 writing and filed by the pharmacist. Such prescriptions shall be retained in conformity
2.25 with section 152.101. No prescription for a Schedule II substance may be refilled.

2.26 ~~For the purposes of this chapter, a written prescription or oral prescription, which~~
2.27 ~~shall be reduced to writing, for a controlled substance in Schedule II, III, IV or V is void~~
2.28 ~~unless (1) it is written in ink and contains the name and address of the person for whose~~
2.29 ~~use it is intended; (2) it states the amount of the controlled substance to be compounded or~~
2.30 ~~dispensed, with directions for its use; (3) if a written prescription, it contains the signature,~~
2.31 ~~address and federal registry number of the prescriber and a designation of the branch of~~
2.32 ~~the healing art pursued by the prescriber; and if an oral prescription, the name and address~~
2.33 ~~of the prescriber and a designation of the prescriber's branch of the healing art; and (4) it~~
2.34 ~~shows the date when signed by the prescriber, or the date of acceptance in the pharmacy if~~
2.35 ~~an oral prescription. Every licensed pharmacist who compounds any such prescription~~
2.36 ~~shall retain such prescription in a file for a period of not less than two years, open to~~

3.1 ~~inspection by any officer of the state, county, or municipal government, whose duty it is to~~
3.2 ~~aid and assist with the enforcement of this chapter. Every such pharmacist shall distinctly~~
3.3 ~~label the container with the directions contained in the prescription for the use thereof.~~

3.4 Subd. 2. ~~Written or oral Prescription requirement~~ **requirements for Schedule**
3.5 **III or IV controlled substances.** No person may dispense a controlled substance included
3.6 in Schedule III or IV of section 152.02 without a ~~written or oral~~ prescription ~~from~~ issued,
3.7 as permitted under subdivision 1, by a doctor of medicine, a doctor of osteopathy licensed
3.8 to practice medicine, a doctor of dental surgery, a doctor of dental medicine, a doctor of
3.9 podiatry, a doctor of optometry limited to Schedule IV, or a doctor of veterinary medicine,
3.10 lawfully licensed to prescribe in this state or from a practitioner licensed to prescribe
3.11 controlled substances by the state in which the prescription is issued, and having a current
3.12 federal drug enforcement administration registration number. Such prescription may not
3.13 be dispensed or refilled except with the ~~written or verbal~~ documented consent of the
3.14 prescriber, and in no event more than six months after the date on which such prescription
3.15 was issued and no such prescription may be refilled more than five times.

3.16 Subd. 2a. **Federal registration number exemption.** A prescription need not
3.17 bear a federal drug enforcement administration registration number that authorizes the
3.18 prescriber to prescribe controlled substances if the drug prescribed is not a controlled
3.19 substance in Schedule II, III, IV, or V. No person shall impose a requirement inconsistent
3.20 with this subdivision.

3.21 Subd. 2b. **Restriction on release of federal registration number.** No person or
3.22 entity may offer for sale, sell, lease, or otherwise release a federal drug enforcement
3.23 administration registration number for any reason, except for drug enforcement purposes
3.24 authorized by this chapter and the federal controlled substances registration system. For
3.25 purposes of this section, an entity includes a state governmental agency or regulatory
3.26 board, a health plan company as defined under section 62Q.01, subdivision 4, a managed
3.27 care organization as defined under section 62Q.01, subdivision 5, or any other entity
3.28 that maintains prescription data.

3.29 Subd. 2c. **Restriction on use of federal registration number.** No entity may use a
3.30 federal drug enforcement administration registration number to identify or monitor the
3.31 prescribing practices of a prescriber to whom that number has been assigned, except for
3.32 drug enforcement purposes authorized by this chapter and the federal controlled substances
3.33 registration system. For purposes of this section, an entity includes a health plan company
3.34 as defined under section 62Q.01, subdivision 4, a managed care organization as defined
3.35 under section 62Q.01, subdivision 5, or any other entity that maintains prescription data.

4.1 Subd. 2d. **Identification requirement for Schedule II or III controlled substance**
4.2 **prescriptions.** (a) No person may dispense a controlled substance included in Schedule
4.3 II or III without requiring the person purchasing the controlled substance, who need
4.4 not be the person for whom the controlled substance prescription is written, to present
4.5 valid photographic identification, unless the person purchasing the controlled substance,
4.6 or if applicable the person for whom the controlled substance prescription is written, is
4.7 known to the dispenser.

4.8 (b) This subdivision applies only to purchases of controlled substances that are
4.9 not covered, in whole or in part, by a health plan company or other third-party payor.
4.10 ~~The Board of Pharmacy shall report to the legislature by July 1, 2009, on the effect of~~
4.11 ~~this subdivision. The board shall include in the report the incidence of complaints, if any,~~
4.12 ~~generated by the requirements of this subdivision and whether this subdivision is creating~~
4.13 ~~barriers to pharmaceutical access.~~

4.14 Subd. 3. **Dispensing orphan drugs.** For the purpose of ~~subdivisions 1 and 2~~ this
4.15 section, nothing shall prohibit the dispensing of orphan drugs prescribed by a person
4.16 practicing in and licensed by another state as a physician, dentist, veterinarian, or
4.17 podiatrist; who has a current federal drug enforcement administration registration number;
4.18 and who may legally prescribe Schedule II, III, IV, or V controlled substances in that state.