# CHAPTER 152

# DRUGS; CONTROLLED SUBSTANCES

## DEFINITIONS AND SCHEDULES OF CONTROLLED SUBSTANCES

### 152.01 DEFINITIONS.

Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of this chapter, shall be given the meanings subjoined to them.

Subd. 2. **Drug.** The term "drug" includes all medicines and preparations recognized in the United States Pharmacopoeia or National Formulary and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either humans or other animals.

Subd. 3. MS 1967 [Repealed, 1969 c 933 s 22]

Subd. 3. **Administer.** "Administer" means to deliver by, or pursuant to the lawful order of a practitioner a single dose of a controlled substance to a patient or research subject by injection, inhalation, ingestion, or by any other immediate means.

Subd. 3a. **Cocaine.** "Cocaine" means coca leaves and any salt, compound, derivative, or preparation of coca leaves, including cocaine and ecgonine, the salts and isomers of cocaine and ecgonine, and the salts of their isomers and any salt, compound, derivative, or preparation thereof that is chemically equivalent or identical with any of those substances, except decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

Subd. 4. MS 1967 [Repealed, 1969 c 933 s 22]

Subd. 4. **Controlled substance.** "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V of section 152.02. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

Subd. 5. [Repealed, 1971 c 937 s 22]

Subd. 5a. **Hallucinogen.** "Hallucinogen" means any hallucinogen listed in section 152.02, subdivision 2, paragraph (d), or Minnesota Rules, part 6800.4210, item C, except marijuana and Tetrahydrocannabinols.

Subd. 6. **Pharmacist intern.** The term "pharmacist intern" means a natural person, a graduate of the College of Pharmacy, University of Minnesota, or other pharmacy college, approved by the board, or a person satisfactorily progressing toward the degree in pharmacy required for licensure, registered by the state Board of Pharmacy, for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist or a qualified applicant, awaiting licensure.

Subd. 7. **Manufacture.** "Manufacture," in places other than a pharmacy, means and includes the production, cultivation, quality control, and standardization by mechanical, physical, chemical, or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling, or by other process, of drugs.

Subd. 8. **Dispense.** "Dispense" means to deliver one or more doses of a controlled substance in a suitable container, properly labeled, for subsequent administration to, or use by a patient or research subject.

Subd. 9. **Marijuana.** "Marijuana" means all parts of the plant of any species of the genus Cannabis, including all agronomical varieties, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination. Marijuana does not include hemp as defined in section 152.22, subdivision 5a.

Subd. 9a. **Mixture.** "Mixture" means a preparation, compound, mixture, or substance containing a controlled substance, regardless of purity except as provided in subdivision 16; sections 152.021, subdivision 2, paragraph (b); 152.022, subdivision 2, paragraph (b); and 152.023, subdivision 2, paragraph (b).

Subd. 10. **Narcotic drug.** "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) opium, coca leaves, opiates, and methamphetamine;

(2) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, opiates, or methamphetamine;

(3) a substance, and any compound, manufacture, salt, derivative, or preparation thereof, which is chemically identical with any of the substances referred to in clauses (1) and (2), except that the words "narcotic drug" as used in this chapter shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

Subd. 11. **Opiate.** "Opiate" means any dangerous substance having an addiction forming or addiction sustaining liability similar to morphine or being capable of conversion into a drug having such addiction forming or addiction sustaining liability.

Subd. 12. **Opium poppy.** "Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.

Subd. 12a. **Park zone.** "Park zone" means an area designated as a public park by the federal government, the state, a local unit of government, a park district board, or a park and recreation board in a city of the first class. "Park zone" includes the area within 300 feet or one city block, whichever distance is greater, of the park boundary.

Subd. 13. **Person.** "Person" includes every individual, copartnership, corporation or association of one or more individuals.

Subd. 14. **Poppy straw.** "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

Subd. 14a. **School zone.** "School zone" means:

(1) any property owned, leased, or controlled by a school district or an organization operating a nonpublic school, as defined in section 123B.41, subdivision 9, where an elementary, middle, secondary school, secondary vocational center or other school providing educational services in grade one through grade 12 is located, or used for educational purposes, or where extracurricular or cocurricular activities are regularly provided;

(2) the area surrounding school property as described in clause (1) to a distance of 300 feet or one city block, whichever distance is greater, beyond the school property; and

(3) the area within a school bus when that bus is being used to transport one or more elementary or secondary school students.

Subd. 15. **Immediate precursor.** "Immediate precursor" means a substance which the state Board of Pharmacy has found to be and by rule designates as being the principal compound commonly used or produced for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit such manufacture.

Subd. 15a. **Sell.** "Sell" means:

(1) to sell, give away, barter, deliver, exchange, distribute or dispose of to another, or to manufacture; or

(2) to offer or agree to perform an act listed in clause (1); or

(3) to possess with intent to perform an act listed in clause (1).

Subd. 16. **Small amount.** "Small amount" as applied to marijuana means 42.5 grams or less. This provision shall not apply to the resinous form of marijuana. The weight of fluid used in a water pipe may not be considered in determining a small amount except in cases where the marijuana is mixed with four or more fluid ounces of fluid.

Subd. 16a. **Subsequent controlled substance conviction.** A "subsequent controlled substance conviction" means that before commission of the offense for which the person is convicted under this chapter, the person was convicted of a violation of section 152.021 or 152.022, including an attempt or conspiracy, or was convicted of a similar offense by the United States or another state, provided that ten years have not elapsed since discharge from sentence.

Subd. 17. [Repealed, 1994 c 636 art 2 s 69]

Subd. 18. **Drug paraphernalia.** (a) Except as otherwise provided in paragraph (b), "drug paraphernalia" means all equipment, products, and materials of any kind, except those items used in conjunction with permitted uses of controlled substances under this chapter or the Uniform Controlled Substances Act, which are knowingly or intentionally used primarily in (1) manufacturing a controlled substance, (2) injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, (3) testing the strength, effectiveness, or purity of a controlled substance, or (4) enhancing the effect of a controlled substance.

(b) "Drug paraphernalia" does not include the possession, manufacture, delivery, or sale of: (1) hypodermic needles or syringes in accordance with section 151.40, subdivision 2; or (2) products that detect the presence of fentanyl or a fentanyl analog in a controlled substance.

Subd. 19. **Public housing zone.** "Public housing zone" means any public housing project or development administered by a local housing agency, plus the area within 300 feet of the property's boundary, or one city block, whichever distance is greater.

Subd. 20. **Unlawfully.** "Unlawfully" means selling or possessing a controlled substance in a manner not authorized by law.

Subd. 21. **Orphan drug.** "Orphan drug" means a drug for a disease or condition which is rare in the United States and has been designated as an orphan drug by the Secretary of Health and Human Services as provided in the Orphan Drug Act, Public Law 92-414, as amended.

Subd. 22. **Drug treatment facility.** "Drug treatment facility" means any facility in which a residential rehabilitation program licensed under chapter 245G or Minnesota Rules, parts 9530.6510 to 9530.6590, is located, and includes any property owned, leased, or controlled by the facility.

Subd. 23. **Analog.** (a) Except as provided in paragraph (b), "analog" means a substance, the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II:

(1) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or

(2) with respect to a particular person, if the person represents or intends that the substance have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(b) "Analog" does not include:

(1) a controlled substance;

(2) any substance for which there is an approved new drug application under the Federal Food, Drug, and Cosmetic Act; or

(3) with respect to a particular person, any substance, if an exemption is in effect for investigational use, for that person, as provided by United States Code, title 21, section 355, and the person is registered as a controlled substance researcher as required under section 152.12, subdivision 3, to the extent conduct with respect to the substance is pursuant to the exemption and registration.

Subd. 24. **Aggravating factor.** Each of the following is an "aggravating factor":

(1) the defendant, within the previous ten years, has been convicted of a violent crime, as defined in section 609.1095, subdivision 1, paragraph (d), other than a violation of a provision under this chapter, including an attempt or conspiracy, or was convicted of a similar offense by the United States or another state;

(2) the offense was committed for the benefit of a gang under section 609.229;

(3) the offense involved separate acts of sale or possession of a controlled substance in three or more counties;

(4) the offense involved the transfer of controlled substances across a state or international border and into Minnesota;

(5) the offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to sell or transfer;

(6) the circumstances of the offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(7) the defendant used a position or status to facilitate the commission of the offense, including positions of trust, confidence, or fiduciary relationships;

(8) the offense involved the sale of a controlled substance to a person under the age of 18 or a vulnerable adult as defined in section 609.232, subdivision 11;

(9) the defendant or an accomplice manufactured, possessed, or sold a controlled substance in a school zone, park zone, correctional facility, or drug treatment facility; or

(10) the defendant or an accomplice possessed equipment, drug paraphernalia, documents, or money evidencing that the offense involved the cultivation, manufacture, distribution, or possession of controlled substances in quantities substantially larger than the minimum threshold amount for the offense.

**History:** *(3899-2, 3899-5, 3899-7, 3906-12) 1921 c 190 s 2,5,7; 1939 c 102 s 2; 1967 c 408 s 1,2; 1971 c 937 s 1-11; Ex1971 c 38 s 1; Ex1971 c 48 s 17; 1973 c 693 s 1; 1979 c 157 s 1; 1981 c 37 s 2; 1981 c 295 s 1; 1982 c 557 s 1; 1982 c 642 s 22; 1985 c 248 s 70; 1986 c 444; 1987 c 298 s 1; 1989 c 290 art 3 s 1-7; 1991 c 279 s 1,2; 1992 c 359 s 1-3; 1993 c 82 s 1; 1997 c 239 art 4 s 1,2; 1998 c 397 art 11 s 3; 1999 c 98 s 1; 2005 c 136 art 7 s 2; 2011 c 53 s 1-3; 2013 c 113 art 3 s 1; 2016 c 160 s 1,2; 2018 c 182 art 2 s 4; 1Sp2019 c 9 art 11 s 77; 1Sp2021 c 11 art 2 s 1*

**152.02** MS 1967 [Repealed, 1969 c 933 s 22]

## 152.02 SCHEDULES OF CONTROLLED SUBSTANCES; ADMINISTRATION OF CHAPTER.

Subdivision 1. **Five schedules.** There are established five schedules of controlled substances, to be known as Schedules I, II, III, IV, and V. The schedules consist of the substances listed in this section by whatever official name, common or usual name, chemical name, or trade name designated.

Subd. 2. **Schedule I.** (a) Schedule I consists of the substances listed in this subdivision.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following substances, including their analogs, isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the analogs, isomers, esters, ethers, and salts is possible:

(1) acetylmethadol;

(2) allylprodine;

(3) alphacetylmethadol (except levo-alphacetylmethadol, also known as levomethadyl acetate);

(4) alphameprodine;

(5) alphamethadol;

(6) alpha-methylfentanyl benzethidine;

(7) betacetylmethadol;

(8) betameprodine;

(9) betamethadol;

(10) betaprodine;

(11) clonitazene;

(12) dextromoramide;

(13) diampromide;

(14) diethyliambutene;

(15) difenoxin;

(16) dimenoxadol;

(17) dimepheptanol;

(18) dimethyliambutene;

(19) dioxaphetyl butyrate;

(20) dipipanone;

(21) ethylmethylthiambutene;

(22) etonitazene;

(23) etoxeridine;

(24) furethidine;

(25) hydroxypethidine;

(26) ketobemidone;

(27) levomoramide;

(28) levophenacylmorphan;

(29) 3-methylfentanyl;

(30) acetyl-alpha-methylfentanyl;

(31) alpha-methylthiofentanyl;

(32) benzylfentanyl beta-hydroxyfentanyl;

(33) beta-hydroxy-3-methylfentanyl;

(34) 3-methylthiofentanyl;

(35) thenylfentanyl;

(36) thiofentanyl;

(37) para-fluorofentanyl;

(38) morpheridine;

(39) 1-methyl-4-phenyl-4-propionoxypiperidine;

(40) noracymethadol;

(41) norlevorphanol;

(42) normethadone;

(43) norpipanone;

(44) 1-(2-phenylethyl)-4-phenyl-4-acetoxypiperidine (PEPAP);

(45) phenadoxone;

(46) phenampromide;

(47) phenomorphan;

(48) phenoperidine;

(49) piritramide;

(50) proheptazine;

(51) properidine;

(52) propiram;

(53) racemoramide;

(54) tilidine;

(55) trimeperidine;

(56) N-(1-Phenethylpiperidin-4-yl)-N-phenylacetamide (acetyl fentanyl);

(57) 3,4-dichloro-N-[(1R,2R)-2-(dimethylamino)cyclohexyl]-N-methylbenzamide(U47700);

(58) N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]furan-2-carboxamide(furanylfentanyl);

(59) 4-(4-bromophenyl)-4-dimethylamino-1-phenethylcyclohexanol (bromadol);

(60) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (Cyclopropryl fentanyl);

(61) N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide) (butyryl fentanyl);

(62) 1-cyclohexyl-4-(1,2-diphenylethyl)piperazine) (MT-45);

(63) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide (cyclopentyl fentanyl);

(64) N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide (isobutyryl fentanyl);

(65) N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide (valeryl fentanyl);

(66) N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide (para-chloroisobutyryl fentanyl);

(67) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide (para-fluorobutyryl fentanyl);

(68) N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)butyramide (para-methoxybutyryl fentanyl);

(69) N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl)acetamide (ocfentanil);

(70) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide (4-fluoroisobutyryl fentanyl or para-fluoroisobutyryl fentanyl);

(71) N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide (acryl fentanyl or acryloylfentanyl);

(72) 2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (methoxyacetyl fentanyl);

(73) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide (ortho-fluorofentanyl or 2-fluorofentanyl);

(74) N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (tetrahydrofuranyl fentanyl); and

(75) Fentanyl-related substances, their isomers, esters, ethers, salts and salts of isomers, esters and ethers, meaning any substance not otherwise listed under another federal Administration Controlled Substance Code Number or not otherwise listed in this section, and for which no exemption or approval is in effect under section 505 of the Federal Food, Drug, and Cosmetic Act, United States Code , title 21, section 355, that is structurally related to fentanyl by one or more of the following modifications:

(i) replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;

(ii) substitution in or on the phenethyl group with alkyl, alkenyl, alkoxyl, hydroxyl, halo, haloalkyl, amino, or nitro groups;

(iii) substitution in or on the piperidine ring with alkyl, alkenyl, alkoxyl, ester, ether, hydroxyl, halo, haloalkyl, amino, or nitro groups;

(iv) replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; or

(v) replacement of the N-propionyl group by another acyl group.

(c) Opium derivatives. Any of the following substances, their analogs, salts, isomers, and salts of isomers, unless specifically excepted or unless listed in another schedule, whenever the existence of the analogs, salts, isomers, and salts of isomers is possible:

(1) acetorphine;

(2) acetyldihydrocodeine;

(3) benzylmorphine;

(4) codeine methylbromide;

(5) codeine-n-oxide;

(6) cyprenorphine;

(7) desomorphine;

(8) dihydromorphine;

(9) drotebanol;

(10) etorphine;

(11) heroin;

(12) hydromorphinol;

(13) methyldesorphine;

(14) methyldihydromorphine;

(15) morphine methylbromide;

(16) morphine methylsulfonate;

(17) morphine-n-oxide;

(18) myrophine;

(19) nicocodeine;

(20) nicomorphine;

(21) normorphine;

(22) pholcodine; and

(23) thebacon.

(d) Hallucinogens. Any material, compound, mixture or preparation which contains any quantity of the following substances, their analogs, salts, isomers (whether optical, positional, or geometric), and salts of isomers, unless specifically excepted or unless listed in another schedule, whenever the existence of the analogs, salts, isomers, and salts of isomers is possible:

(1) methylenedioxy amphetamine;

(2) methylenedioxymethamphetamine;

(3) methylenedioxy-N-ethylamphetamine (MDEA);

(4) n-hydroxy-methylenedioxyamphetamine;

(5) 4-bromo-2,5-dimethoxyamphetamine (DOB);

(6) 2,5-dimethoxyamphetamine (2,5-DMA);

(7) 4-methoxyamphetamine;

(8) 5-methoxy-3, 4-methylenedioxyamphetamine;

(9) alpha-ethyltryptamine;

(10) bufotenine;

(11) diethyltryptamine;

(12) dimethyltryptamine;

(13) 3,4,5-trimethoxyamphetamine;

(14) 4-methyl-2, 5-dimethoxyamphetamine (DOM);

(15) ibogaine;

(16) lysergic acid diethylamide (LSD);

(17) mescaline;

(18) parahexyl;

(19) N-ethyl-3-piperidyl benzilate;

(20) N-methyl-3-piperidyl benzilate;

(21) psilocybin;

(22) psilocyn;

(23) tenocyclidine (TPCP or TCP);

(24) N-ethyl-1-phenyl-cyclohexylamine (PCE);

(25) 1-(1-phenylcyclohexyl) pyrrolidine (PCPy);

(26) 1-[1-(2-thienyl)cyclohexyl]-pyrrolidine (TCPy);

(27) 4-chloro-2,5-dimethoxyamphetamine (DOC);

(28) 4-ethyl-2,5-dimethoxyamphetamine (DOET);

(29) 4-iodo-2,5-dimethoxyamphetamine (DOI);

(30) 4-bromo-2,5-dimethoxyphenethylamine (2C-B);

(31) 4-chloro-2,5-dimethoxyphenethylamine (2C-C);

(32) 4-methyl-2,5-dimethoxyphenethylamine (2C-D);

(33) 4-ethyl-2,5-dimethoxyphenethylamine (2C-E);

(34) 4-iodo-2,5-dimethoxyphenethylamine (2C-I);

(35) 4-propyl-2,5-dimethoxyphenethylamine (2C-P);

(36) 4-isopropylthio-2,5-dimethoxyphenethylamine (2C-T-4);

(37) 4-propylthio-2,5-dimethoxyphenethylamine (2C-T-7);

(38) 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4-yl)ethanamine (2-CB-FLY);

(39) bromo-benzodifuranyl-isopropylamine (Bromo-DragonFLY);

(40) alpha-methyltryptamine (AMT);

(41) N,N-diisopropyltryptamine (DiPT);

(42) 4-acetoxy-N,N-dimethyltryptamine (4-AcO-DMT);

(43) 4-acetoxy-N,N-diethyltryptamine (4-AcO-DET);

(44) 4-hydroxy-N-methyl-N-propyltryptamine (4-HO-MPT);

(45) 4-hydroxy-N,N-dipropyltryptamine (4-HO-DPT);

(46) 4-hydroxy-N,N-diallyltryptamine (4-HO-DALT);

(47) 4-hydroxy-N,N-diisopropyltryptamine (4-HO-DiPT);

(48) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DiPT);

(49) 5-methoxy-α-methyltryptamine (5-MeO-AMT);

(50) 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT);

(51) 5-methylthio-N,N-dimethyltryptamine (5-MeS-DMT);

(52) 5-methoxy-N-methyl-N-isopropyltryptamine (5-MeO-MiPT);

(53) 5-methoxy-α-ethyltryptamine (5-MeO-AET);

(54) 5-methoxy-N,N-dipropyltryptamine (5-MeO-DPT);

(55) 5-methoxy-N,N-diethyltryptamine (5-MeO-DET);

(56) 5-methoxy-N,N-diallyltryptamine (5-MeO-DALT);

(57) methoxetamine (MXE);

(58) 5-iodo-2-aminoindane (5-IAI);

(59) 5,6-methylenedioxy-2-aminoindane (MDAI);

(60) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25B-NBOMe);

(61) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25C-NBOMe);

(62) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25I-NBOMe);

(63) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);

(64) 2-(4-Ethylthio-2,5-dimethoxyphenyl)ethanamine (2C-T-2);

(65) N,N-Dipropyltryptamine (DPT);

(66) 3-[1-(Piperidin-1-yl)cyclohexyl]phenol (3-HO-PCP);

(67) N-ethyl-1-(3-methoxyphenyl)cyclohexanamine (3-MeO-PCE);

(68) 4-[1-(3-methoxyphenyl)cyclohexyl]morpholine (3-MeO-PCMo);

(69) 1-[1-(4-methoxyphenyl)cyclohexyl]-piperidine (methoxydine, 4-MeO-PCP);

(70) 2-(2-Chlorophenyl)-2-(ethylamino)cyclohexan-1-one (N-Ethylnorketamine, ethketamine, NENK);

(71) methylenedioxy-N,N-dimethylamphetamine (MDDMA);

(72) 3-(2-Ethyl(methyl)aminoethyl)-1H-indol-4-yl (4-AcO-MET); and

(73) 2-Phenyl-2-(methylamino)cyclohexanone (deschloroketamine).

(e) Peyote. All parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of the plant, and every compound, manufacture, salts, derivative, mixture, or preparation of the plant, its seeds or extracts. The listing of peyote as a controlled substance in Schedule I does not apply to the nondrug use of peyote in bona fide religious ceremonies of the American Indian Church, and members of the American Indian Church are exempt from registration. Any person who manufactures peyote for or distributes peyote to the American Indian Church, however, is required to obtain federal registration annually and to comply with all other requirements of law.

(f) Central nervous system depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances, their analogs, salts, isomers, and salts of isomers whenever the existence of the analogs, salts, isomers, and salts of isomers is possible:

(1) mecloqualone;

(2) methaqualone;

(3) gamma-hydroxybutyric acid (GHB), including its esters and ethers;

(4) flunitrazepam;

(5) 2-(2-Methoxyphenyl)-2-(methylamino)cyclohexanone (2-MeO-2-deschloroketamine, methoxyketamine);

(6) tianeptine;

(7) clonazolam;

(8) etizolam;

(9) flubromazolam; and

(10) flubromazepam.

(g) Stimulants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances, their analogs, salts, isomers, and salts of isomers whenever the existence of the analogs, salts, isomers, and salts of isomers is possible:

(1) aminorex;

(2) cathinone;

(3) fenethylline;

(4) methcathinone;

(5) methylaminorex;

(6) N,N-dimethylamphetamine;

(7) N-benzylpiperazine (BZP);

(8) methylmethcathinone (mephedrone);

(9) 3,4-methylenedioxy-N-methylcathinone (methylone);

(10) methoxymethcathinone (methedrone);

(11) methylenedioxypyrovalerone (MDPV);

(12) 3-fluoro-N-methylcathinone (3-FMC);

(13) methylethcathinone (MEC);

(14) 1-benzofuran-6-ylpropan-2-amine (6-APB);

(15) dimethylmethcathinone (DMMC);

(16) fluoroamphetamine;

(17) fluoromethamphetamine;

(18) α-methylaminobutyrophenone (MABP or buphedrone);

(19) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone);

(20) 2-(methylamino)-1-(4-methylphenyl)butan-1-one (4-MEMABP or BZ-6378);

(21) 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl) pentan-1-one (naphthylpyrovalerone or naphyrone);

(22) (alpha-pyrrolidinopentiophenone (alpha-PVP);

(23) (RS)-1-(4-methylphenyl)-2-(1-pyrrolidinyl)-1-hexanone (4-Me-PHP or MPHP);

(24) 2-(1-pyrrolidinyl)-hexanophenone (Alpha-PHP);

(25) 4-methyl-N-ethylcathinone (4-MEC);

(26) 4-methyl-alpha-pyrrolidinopropiophenone (4-MePPP);

(27) 2-(methylamino)-1-phenylpentan-1-one (pentedrone);

(28) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone);

(29) 4-fluoro-N-methylcathinone (4-FMC);

(30) 3,4-methylenedioxy-N-ethylcathinone (ethylone);

(31) alpha-pyrrolidinobutiophenone (α-PBP);

(32) 5-(2-Aminopropyl)-2,3-dihydrobenzofuran (5-APDB);

(33) 1-phenyl-2-(1-pyrrolidinyl)-1-heptanone (PV8);

(34) 6-(2-Aminopropyl)-2,3-dihydrobenzofuran (6-APDB);

(35) 4-methyl-alpha-ethylaminopentiophenone (4-MEAPP);

(36) 4'-chloro-alpha-pyrrolidinopropiophenone (4'-chloro-PPP);

(37) 1-(1,3-Benzodioxol-5-yl)-2-(dimethylamino)butan-1-one (dibutylone, bk-DMBDB);

(38) 1-(3-chlorophenyl) piperazine (meta-chlorophenylpiperazine or mCPP);

(39) 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one (N-ethylpentylone, ephylone); and

(40) any other substance, except bupropion or compounds listed under a different schedule, that is structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:

(i) by substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;

(ii) by substitution at the 3-position with an acyclic alkyl substituent;

(iii) by substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups; or

(iv) by inclusion of the 2-amino nitrogen atom in a cyclic structure.

(h) Marijuana, tetrahydrocannabinols, and synthetic cannabinoids. Unless specifically excepted or unless listed in another schedule, any natural or synthetic material, compound, mixture, or preparation that contains any quantity of the following substances, their analogs, isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, or salts is possible:

(1) marijuana;

(2) tetrahydrocannabinols naturally contained in a plant of the genus Cannabis, except that tetrahydrocannabinols do not include any material, compound, mixture, or preparation that qualifies as industrial hemp as defined in section 18K.02, subdivision 3; synthetic equivalents of the substances contained in the cannabis plant or in the resinous extractives of the plant; or synthetic substances with similar chemical structure and pharmacological activity to those substances contained in the plant or resinous extract, including, but not limited to, 1 cis or trans tetrahydrocannabinol, 6 cis or trans tetrahydrocannabinol, and 3,4 cis or trans tetrahydrocannabinol;

(3) synthetic cannabinoids, including the following substances:

(i) Naphthoylindoles, which are any compounds containing a 3-(1-napthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of naphthoylindoles include, but are not limited to:

(A) 1-Pentyl-3-(1-naphthoyl)indole (JWH-018 and AM-678);

(B) 1-Butyl-3-(1-naphthoyl)indole (JWH-073);

(C) 1-Pentyl-3-(4-methoxy-1-naphthoyl)indole (JWH-081);

(D) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200);

(E) 1-Propyl-2-methyl-3-(1-naphthoyl)indole (JWH-015);

(F) 1-Hexyl-3-(1-naphthoyl)indole (JWH-019);

(G) 1-Pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122);

(H) 1-Pentyl-3-(4-ethyl-1-naphthoyl)indole (JWH-210);

(I) 1-Pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398);

(J) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM-2201).

(ii) Napthylmethylindoles, which are any compounds containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of naphthylmethylindoles include, but are not limited to:

(A) 1-Pentyl-1H-indol-3-yl-(1-naphthyl)methane (JWH-175);

(B) 1-Pentyl-1H-indol-3-yl-(4-methyl-1-naphthyl)methane (JWH-184).

(iii) Naphthoylpyrroles, which are any compounds containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples of naphthoylpyrroles include, but are not limited to, (5-(2-fluorophenyl)-1-pentylpyrrol-3-yl)-naphthalen-1-ylmethanone (JWH-307).

(iv) Naphthylmethylindenes, which are any compounds containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples of naphthylemethylindenes include, but are not limited to, E-1-[1-(1-naphthalenylmethylene)-1H-inden-3-yl]pentane (JWH-176).

(v) Phenylacetylindoles, which are any compounds containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent. Examples of phenylacetylindoles include, but are not limited to:

(A) 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (RCS-8);

(B) 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250);

(C) 1-pentyl-3-(2-methylphenylacetyl)indole (JWH-251);

(D) 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH-203).

(vi) Cyclohexylphenols, which are compounds containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent. Examples of cyclohexylphenols include, but are not limited to:

(A) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP 47,497);

(B) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (Cannabicyclohexanol or CP 47,497 C8 homologue);

(C) 5-(1,1-dimethylheptyl)-2-[(1R,2R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl] -phenol (CP 55,940).

(vii) Benzoylindoles, which are any compounds containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of benzoylindoles include, but are not limited to:

(A) 1-Pentyl-3-(4-methoxybenzoyl)indole (RCS-4);

(B) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM-694);

(C) (4-methoxyphenyl-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (WIN 48,098 or Pravadoline).

(viii) Others specifically named:

(A) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl) -6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (HU-210);

(B) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl) -6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (Dexanabinol or HU-211);

(C) 2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de] -1,4-benzoxazin-6-yl-1-naphthalenylmethanone (WIN 55,212-2);

(D) (1-pentylindol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone (UR-144);

(E) (1-(5-fluoropentyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (XLR-11);

(F) 1-pentyl-N-tricyclo[3.3.1.13,7]dec-1-yl-1H-indazole-3-carboxamide (AKB-48(APINACA));

(G) N-((3s,5s,7s)-adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (5-Fluoro-AKB-48);

(H) 1-pentyl-8-quinolinyl ester-1H-indole-3-carboxylic acid (PB-22);

(I) 8-quinolinyl ester-1-(5-fluoropentyl)-1H-indole-3-carboxylic acid (5-Fluoro PB-22);

(J) N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-pentyl-1H-indazole- 3-carboxamide (AB-PINACA);

(K) N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-[(4-fluorophenyl)methyl]- 1H-indazole-3-carboxamide (AB-FUBINACA);

(L) N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-(cyclohexylmethyl)-1H- indazole-3-carboxamide(AB-CHMINACA);

(M) (S)-methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3- methylbutanoate (5-fluoro-AMB);

(N) [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl) methanone (THJ-2201);

(O) (1-(5-fluoropentyl)-1H-benzo[d]imidazol-2-yl)(naphthalen-1-yl)methanone) (FUBIMINA);

(P) (7-methoxy-1-(2-morpholinoethyl)-N-((1S,2S,4R)-1,3,3-trimethylbicyclo [2.2.1]heptan-2-yl)-1H-indole-3-carboxamide (MN-25 or UR-12);

(Q) (S)-N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl) -1H-indole-3-carboxamide (5-fluoro-ABICA);

(R) N-(1-amino-3-phenyl-1-oxopropan-2-yl)-1-(5-fluoropentyl) -1H-indole-3-carboxamide;

(S) N-(1-amino-3-phenyl-1-oxopropan-2-yl)-1-(5-fluoropentyl) -1H-indazole-3-carboxamide;

(T) methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido) -3,3-dimethylbutanoate;

(U) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1(cyclohexylmethyl)-1 H-indazole-3-carboxamide (MAB-CHMINACA);

(V) N-(1-Amino-3,3-dimethyl-1-oxo-2-butanyl)-1-pentyl-1H-indazole-3-carboxamide (ADB-PINACA);

(W) methyl (1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)-L-valinate (FUB-AMB);

(X) N-[(1S)-2-amino-2-oxo-1-(phenylmethyl)ethyl]-1-(cyclohexylmethyl)-1H-Indazole-3-carboxamide. (APP-CHMINACA);

(Y) quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (FUB-PB-22); and

(Z) methyl N-[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]valinate (MMB-CHMICA).

(ix) Additional substances specifically named:

(A) 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1 H-pyrrolo[2,3-B]pyridine-3-carboxamide (5F-CUMYL-P7AICA);

(B) 1-(4-cyanobutyl)-N-(2- phenylpropan-2-yl)-1 H-indazole-3-carboxamide (4-CN-Cumyl-Butinaca);

(C) naphthalen-1-yl-1-(5-fluoropentyl)-1-H-indole-3-carboxylate (NM2201; CBL2201);

(D) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1 H-indazole-3-carboxamide (5F-ABPINACA);

(E) methyl-2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate (MDMB CHMICA);

(F) methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate (5F-ADB; 5F-MDMB-PINACA); and

(G) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl) 1H-indazole-3-carboxamide (ADB-FUBINACA).

(i) A controlled substance analog, to the extent that it is implicitly or explicitly intended for human consumption.

Subd. 3. **Schedule II.** (a) Schedule II consists of the substances listed in this subdivision.

(b) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(i) Excluding:

(A) apomorphine;

(B) thebaine-derived butorphanol;

(C) dextrophan;

(D) nalbuphine;

(E) nalmefene;

(F) naloxegol;

(G) naloxone;

(H) naltrexone; and

(I) their respective salts;

(ii) but including the following:

(A) opium, in all forms and extracts;

(B) codeine;

(C) dihydroetorphine;

(D) ethylmorphine;

(E) etorphine hydrochloride;

(F) hydrocodone;

(G) hydromorphone;

(H) metopon;

(I) morphine;

(J) oxycodone;

(K) oxymorphone;

(L) thebaine;

(M) oripavine;

(2) any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1), except that these substances shall not include the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) coca leaves and any salt, cocaine compound, derivative, or preparation of coca leaves (including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine;

(5) concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy).

(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, or unless listed in another schedule, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) alfentanil;

(2) alphaprodine;

(3) anileridine;

(4) bezitramide;

(5) bulk dextropropoxyphene (nondosage forms);

(6) carfentanil;

(7) dihydrocodeine;

(8) dihydromorphinone;

(9) diphenoxylate;

(10) fentanyl;

(11) isomethadone;

(12) levo-alpha-acetylmethadol (LAAM);

(13) levomethorphan;

(14) levorphanol;

(15) metazocine;

(16) methadone;

(17) methadone - intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane;

(18) moramide - intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;

(19) pethidine;

(20) pethidine - intermediate - a, 4-cyano-1-methyl-4-phenylpiperidine;

(21) pethidine - intermediate - b, ethyl-4-phenylpiperidine-4-carboxylate;

(22) pethidine - intermediate - c, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

(23) phenazocine;

(24) piminodine;

(25) racemethorphan;

(26) racemorphan;

(27) remifentanil;

(28) sufentanil;

(29) tapentadol;

(30) 4-Anilino-N-phenethylpiperidine.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) amphetamine, its salts, optical isomers, and salts of its optical isomers;

(2) methamphetamine, its salts, isomers, and salts of its isomers;

(3) phenmetrazine and its salts;

(4) methylphenidate;

(5) lisdexamfetamine.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) amobarbital;

(2) glutethimide;

(3) secobarbital;

(4) pentobarbital;

(5) phencyclidine;

(6) phencyclidine immediate precursors:

(i) 1-phenylcyclohexylamine;

(ii) 1-piperidinocyclohexanecarbonitrile;

(7) phenylacetone.

(f) Cannabinoids:

(1) nabilone;

(2) dronabinol [(-)-delta-9-trans-tetrahydrocannabinol (delta-9-THC)] in an oral solution in a drug product approved for marketing by the United States Food and Drug Administration.

Subd. 4. **Schedule III.** (a) Schedule III consists of the substances listed in this subdivision.

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system, including its salts, isomers, and salts of

such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) benzphetamine;

(2) chlorphentermine;

(3) clortermine;

(4) phendimetrazine.

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;

(2) any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the food and drug administration for marketing only as a suppository;

(3) any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules;

(4) any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal Food, Drug, and Cosmetic Act;

(5) any of the following substances:

(i) chlorhexadol;

(ii) ketamine, its salts, isomers and salts of isomers;

(iii) lysergic acid;

(iv) lysergic acid amide;

(v) methyprylon;

(vi) sulfondiethylmethane;

(vii) sulfonenthylmethane;

(viii) sulfonmethane;

(ix) tiletamine and zolazepam and any salt thereof;

(x) embutramide;

(xi) Perampanel [2-(2-oxo-1-phenyl-5-pyridin-2-yl-1,2-Dihydropyridin-3-yl) benzonitrile].

(d) Nalorphine.

(e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as follows:

(1) not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) not more than 1.80 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(4) not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(f) Anabolic steroids, human growth hormone, and chorionic gonadotropin.

(1) Anabolic steroids, for purposes of this subdivision, means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone, and includes:

(i) 3[beta],17[beta]-dihydroxy-5[alpha]-androstane;

(ii) 3[alpha],17[beta]-dihydroxy-5[alpha]-androstane;

(iii) androstanedione (5[alpha]-androstan-3,17-dione);

(iv) 1-androstenediol (3[beta],17[beta]-dihydroxy-5[alpha]-androst-l-ene;

(v) 3[alpha],17[beta]-dihydroxy-5[alpha]-androst-1-ene);

(vi) 4-androstenediol (3[beta],17[beta]-dihydroxy-androst-4-ene);

(vii) 5-androstenediol (3[beta],17[beta]-dihydroxy-androst-5-ene);

(viii) 1-androstenedione (5[alpha]-androst-1-en-3,17-dione);

(ix) 4-androstenedione (androst-4-en-3,17-dione);

(x) 5-androstenedione (androst-5-en-3,17-dione);

(xi) bolasterone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one);

(xii) boldenone (17[beta]-hydroxyandrost-1,4-diene-3-one);

(xiii) boldione (androsta-1,4-diene-3,17-dione);

(xiv) calusterone (7[beta],17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one);

(xv) clostebol (4-chloro-17[beta]-hydroxyandrost-4-en-3-one);

(xvi) dehydrochloromethyltestosterone (4-chloro-17[beta]-hydroxy-17[alpha]-methylandrost-1,4-dien-3-one);

(xvii) desoxymethyltestosterone (17[alpha]-methyl-5[alpha]-androst-2-en-17[beta]-ol);

(xviii) [delta]1-dihydrotestosterone- (17[beta]-hydroxy-5[alpha]-androst-1-en-3-one);

(xix) 4-dihydrotestosterone (17[beta]-hydroxy-androstan-3-one);

(xx) drostanolone (17[beta]hydroxy-2[alpha]-methyl-5[alpha]-androstan-3-one);

(xxi) ethylestrenol (17[alpha]-ethyl-17[beta]-hydroxyestr-4-ene);

(xxii) fluoxymesterone (9-fluoro-17[alpha]-methyl-11[beta],17[beta]-dihydroxyandrost-4-en-3-one);

(xxiii) formebolone (2-formyl-17[alpha]-methyl-11[alpha],17[beta]-dihydroxyandrost-1,4-dien-3-one);

(xxiv) furazabol (17[alpha]-methyl-17[beta]-hydroxyandrostano[2,3-c]-furazan)13[beta]-ethyl-17[beta]-hydroxygon-4-en-3-one;

(xxv) 4-hydroxytestosterone (4,17[beta]-dihydroxyandrost-4-en-3-one);

(xxvi) 4-hydroxy-19-nortestosterone (4,17[beta]-dihydroxyestr-4-en-3-one);

(xxvii) mestanolone (17[alpha]-methyl-17[beta]-hydroxy-5[alpha]-androstan-3-one);

(xxviii) mesterolone (1[alpha]-methyl-17[beta]-hydroxy-5[alpha]-androstan-3-one);

(xxix) methandienone (17[alpha]-methyl-17[beta]-hydroxyandrost-1,4-dien-3-one);

(xxx) methandriol (17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-5-ene);

(xxxi) methasterone (2 alpha-17 alpha-dimethyl-5 alpha-androstan-17beta-ol-3-one);

(xxxii) methenolone (1-methyl-17[beta]-hydroxy-5[alpha]-androst-1-en-3-one);

(xxxiii) 17[alpha]-methyl-3[beta],17[beta]-dihydroxy-5[alpha]-androstane;

(xxxiv) 17[alpha]-methyl-3[alpha],17[beta]-dihydroxy-5[alpha]-androstane;

(xxxv) 17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-4-ene;

(xxxvi) 17[alpha]-methyl-4-hydroxynandrolone (17[alpha]-methyl-4-hydroxy-17[beta]-hydroxyestr-4-en-3-one);

(xxxvii) methyldienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9(10)-dien-3-one);

(xxxviii) methyltrienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9-11-trien-3-one);

(xxxix) methyltestosterone (17[alpha]-methyl-17[beta]-hydroxyandrost-4-en-3-one);

(xl) mibolerone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyestr-4-en-3-one);

(xli) 17[alpha]-methyl-[delta]1-dihydrotestosterone (17[beta]-hydroxy-17[alpha]-methyl-5[alpha]-androst-1-en-3-one);

(xlii) nandrolone (17[beta]-hydroxyestr-4-en-3-one);

(xliii) 19-nor-4-androstenediol (3[beta],17[beta]-dihydroxyestr-4-ene;

(xliv) 3[alpha],17[beta]-dihydroxyestr-4-ene); 19-nor-5-androstenediol (3[beta],17[beta]-dihydroxyestr-5-ene;

(xlv) 3[alpha],17[beta]-dihydroxyestr-5-ene);

(xlvi) 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione);

(xlvii) 19-nor-5-androstenedione (estr-5-en-3,17-dione);

(xlviii) norbolethone (13[beta],17[alpha]-diethyl-17[beta]-hydroxygon-4-en-3-one);

(xlix) norclostebol (4-chloro-17[beta]-hydroxyestr-4-en-3-one);

(l) norethandrolone (17[alpha]-ethyl-17[beta]-hydroxyestr-4-en-3-one);

(li) normethandrolone (17[alpha]-methyl-17[beta]-hydroxyestr-4-en-3-one);

(lii) oxandrolone (17[alpha]-methyl-17[beta]-hydroxy-2-oxa-5[alpha]-androstan-3-one);

(liii) oxymesterone (17[alpha]-methyl-4,17[beta]-dihydroxyandrost-4-en-3-one);

(liv) oxymetholone (17[alpha]-methyl-2-hydroxymethylene-17[beta]-hydroxy-5[alpha]-androstan-3-one);

(lv) prostanozol (17 beta-hydroxy-5 alpha-androstano[3,2-C]pryazole;

(lvi) stanozolol (17[alpha]-methyl-17[beta]-hydroxy-5[alpha]-androst-2-eno[3,2-c]-pyrazole);

(lvii) stenbolone (17[beta]-hydroxy-2-methyl-5[alpha]-androst-1-en-3-one);

(lviii) testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);

(lix) testosterone (17[beta]-hydroxyandrost-4-en-3-one);

(lx) tetrahydrogestrinone (13[beta],17[alpha]-diethyl-17[beta]-hydroxygon-4,9,11-trien-3-one);

(lxi) trenbolone (17[beta]-hydroxyestr-4,9,11-trien-3-one);

(lxii) any salt, ester, or ether of a drug or substance described in this paragraph.

Anabolic steroids are not included if they are: (A) expressly intended for administration through implants to cattle or other nonhuman species; and (B) approved by the United States Food and Drug Administration for that use;

(2) Human growth hormones.

(3) Chorionic gonadotropin, except that a product containing chorionic gonadotropin is not included if it is:

(i) expressly intended for administration to cattle or other nonhuman species; and

(ii) approved by the United States Food and Drug Administration for that use.

(g) Hallucinogenic substances. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved product.

(h) Any material, compound, mixture, or preparation containing the following narcotic drug or its salt: buprenorphine.

Subd. 5. **Schedule IV.** (a) Schedule IV consists of the substances listed in this subdivision.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as follows:

(1) not more than one milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(2) dextropropoxyphene (Darvon and Darvocet);

(3) 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers, and salts of these isomers (including tramadol);

(4) eluxadoline;

(5) pentazocine; and

(6) butorphanol (including its optical isomers).

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of the salts, isomers, and salts of isomers is possible:

(1) alfaxalone (5α-pregnan-3α-ol-11,20-dione);

(2) alprazolam;

(3) barbital;

(4) bromazepam;

(5) camazepam;

(6) carisoprodol;

(7) chloral betaine;

(8) chloral hydrate;

(9) chlordiazepoxide;

(10) clobazam;

(11) clonazepam;

(12) clorazepate;

(13) clotiazepam;

(14) cloxazolam;

(15) delorazepam;

(16) diazepam;

(17) dichloralphenazone;

(18) estazolam;

(19) ethchlorvynol;

(20) ethinamate;

(21) ethyl loflazepate;

(22) fludiazepam;

(23) flurazepam;

(24) fospropofol;

(25) halazepam;

(26) haloxazolam;

(27) ketazolam;

(28) loprazolam;

(29) lorazepam;

(30) lormetazepam mebutamate;

(31) medazepam;

(32) meprobamate;

(33) methohexital;

(34) methylphenobarbital;

(35) midazolam;

(36) nimetazepam;

(37) nitrazepam;

(38) nordiazepam;

(39) oxazepam;

(40) oxazolam;

(41) paraldehyde;

(42) petrichloral;

(43) phenobarbital;

(44) pinazepam;

(45) prazepam;

(46) quazepam;

(47) suvorexant;

(48) temazepam;

(49) tetrazepam;

(50) triazolam;

(51) zaleplon;

(52) zolpidem;

(53) zopiclone.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following substance including its salts, isomers, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: fenfluramine.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) cathine (norpseudoephedrine);

(2) diethylpropion;

(3) fencamfamine;

(4) fenproporex;

(5) mazindol;

(6) mefenorex;

(7) modafinil;

(8) pemoline (including organometallic complexes and chelates thereof);

(9) phentermine;

(10) pipradol;

(11) sibutramine;

(12) SPA (1-dimethylamino-1,2-diphenylethane).

(f) lorcaserin.

Subd. 6. **Schedule V; restrictions on methamphetamine precursor drugs.** (a) As used in this subdivision, the following terms have the meanings given:

(1) "methamphetamine precursor drug" means any compound, mixture, or preparation intended for human consumption containing ephedrine or pseudoephedrine as its sole active ingredient or as one of its active ingredients; and

(2) "over-the-counter sale" means a retail sale of a drug or product but does not include the sale of a drug or product pursuant to the terms of a valid prescription.

(b) The following items are listed in Schedule V:

(1) any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(i) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(ii) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(iii) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(iv) not more than 100 milligrams of opium per 100 milliliters or per 100 grams; or

(v) not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substance having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers: pyrovalerone.

(3) Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(i) ezogabine;

(ii) pregabalin;

(iii) lacosamide.

(4) Any compound, mixture, or preparation containing ephedrine or pseudoephedrine as its sole active ingredient or as one of its active ingredients.

(c) No person may sell in a single over-the-counter sale more than two packages of a methamphetamine precursor drug or a combination of methamphetamine precursor drugs or any combination of packages exceeding a total weight of six grams, calculated as the base.

(d) Over-the-counter sales of methamphetamine precursor drugs are limited to:

(1) packages containing not more than a total of three grams of one or more methamphetamine precursor drugs, calculated in terms of ephedrine base or pseudoephedrine base; or

(2) for nonliquid products, sales in blister packs, where each blister contains not more than two dosage units, or, if the use of blister packs is not technically feasible, sales in unit dose packets or pouches.

(e) A business establishment that offers for sale methamphetamine precursor drugs in an over-the-counter sale shall ensure that all packages of the drugs are displayed behind a checkout counter where the public is not permitted and are offered for sale only by a licensed pharmacist, a registered pharmacy technician, or a pharmacy clerk. The establishment shall ensure that the person making the sale requires the buyer:

(1) to provide photographic identification showing the buyer's date of birth; and

(2) to sign a written or electronic document detailing the date of the sale, the name of the buyer, and the amount of the drug sold.

A document described under clause (2) must be retained by the establishment for at least three years and must at all reasonable times be open to the inspection of any law enforcement agency.

Nothing in this paragraph requires the buyer to obtain a prescription for the drug's purchase.

(f) No person may acquire through over-the-counter sales more than six grams of methamphetamine precursor drugs, calculated as the base, within a 30-day period.

(g) No person may sell in an over-the-counter sale a methamphetamine precursor drug to a person under the age of 18 years. It is an affirmative defense to a charge under this paragraph if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in section 340A.503, subdivision 6.

(h) A person who knowingly violates paragraph (c), (d), (e), (f), or (g) is guilty of a misdemeanor and may be sentenced to imprisonment for not more than 90 days, or to payment of a fine of not more than $1,000, or both.

(i) An owner, operator, supervisor, or manager of a business establishment that offers for sale methamphetamine precursor drugs whose employee or agent is convicted of or charged with violating paragraph (c), (d), (e), (f), or (g) is not subject to the criminal penalties for violating any of those paragraphs if the person:

(1) did not have prior knowledge of, participate in, or direct the employee or agent to commit the violation; and

(2) documents that an employee training program was in place to provide the employee or agent with information on the state and federal laws and regulations regarding methamphetamine precursor drugs.

(j) Any person employed by a business establishment that offers for sale methamphetamine precursor drugs who sells such a drug to any person in a suspicious transaction shall report the transaction to the owner, supervisor, or manager of the establishment. The owner, supervisor, or manager may report the transaction to local law enforcement. A person who reports information under this subdivision in good faith is immune from civil liability relating to the report.

(k) Paragraphs (b) to (j) do not apply to:

(1) pediatric products labeled pursuant to federal regulation primarily intended for administration to children under 12 years of age according to label instructions;

(2) methamphetamine precursor drugs that are certified by the Board of Pharmacy as being manufactured in a manner that prevents the drug from being used to manufacture methamphetamine;

(3) methamphetamine precursor drugs in gel capsule or liquid form; or

(4) compounds, mixtures, or preparations in powder form where pseudoephedrine constitutes less than one percent of its total weight and is not its sole active ingredient.

(l) The Board of Pharmacy, in consultation with the Department of Public Safety, shall certify methamphetamine precursor drugs that meet the requirements of paragraph (k), clause (2), and publish an annual listing of these drugs.

(m) Wholesale drug distributors licensed and regulated by the Board of Pharmacy pursuant to sections 151.42 to 151.51 and registered with and regulated by the United States Drug Enforcement Administration are exempt from the methamphetamine precursor drug storage requirements of this section.

(n) This section preempts all local ordinances or regulations governing the sale by a business establishment of over-the-counter products containing ephedrine or pseudoephedrine. All ordinances enacted prior to the effective date of this act are void.

Subd. 7. **Board of Pharmacy; regulation of substances.** The Board of Pharmacy is authorized to regulate and define additional substances which contain quantities of a substance possessing abuse potential in accordance with the following criteria:

(1) The Board of Pharmacy shall place a substance in Schedule I if it finds that the substance has: A high potential for abuse, no currently accepted medical use in the United States, and a lack of accepted safety for use under medical supervision.

(2) The Board of Pharmacy shall place a substance in Schedule II if it finds that the substance has: A high potential for abuse, currently accepted medical use in the United States, or currently accepted medical use with severe restrictions, and that abuse may lead to severe psychological or physical dependence.

(3) The Board of Pharmacy shall place a substance in Schedule III if it finds that the substance has: A potential for abuse less than the substances listed in Schedules I and II, currently accepted medical use in treatment in the United States, and that abuse may lead to moderate or low physical dependence or high psychological dependence.

(4) The Board of Pharmacy shall place a substance in Schedule IV if it finds that the substance has: A low potential for abuse relative to the substances in Schedule III, currently accepted medical use in treatment in the United States, and that abuse may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

(5) The Board of Pharmacy shall place a substance in Schedule V if it finds that the substance has: A low potential for abuse relative to the substances listed in Schedule IV, currently accepted medical use in treatment in the United States, and limited physical dependence and/or psychological dependence liability relative to the substances listed in Schedule IV.

Subd. 8. **Add, delete, or reschedule substances.** The state Board of Pharmacy may, by rule, add substances to or delete or reschedule substances listed in this section. The Board of Pharmacy may not delete or reschedule a drug that is in Schedule I, except as provided in subdivision 12.

In making a determination regarding a substance, the Board of Pharmacy shall consider the following: The actual or relative potential for abuse, the scientific evidence of its pharmacological effect, if known, the state of current scientific knowledge regarding the substance, the history and current pattern of abuse, the scope, duration, and significance of abuse, the risk to public health, the potential of the substance to produce psychic or physiological dependence liability, and whether the substance is an immediate precursor of a substance already controlled under this section. The state Board of Pharmacy may include any nonnarcotic

drug authorized by federal law for medicinal use in a schedule only if such drug must, under either federal or state law or rule, be sold only on prescription.

Subd. 8a. [Repealed by amendment, 2012 c 240 s 1]

Subd. 8b. **Board of Pharmacy; expedited scheduling of additional substances.** The state Board of Pharmacy may, by rule, add a substance to Schedule I provided that it finds that the substance has a high potential for abuse, has no currently accepted medical use in the United States, has a lack of accepted safety for use under medical supervision, has known adverse health effects, and is currently available for use within the state. For the purposes of this subdivision only, the board may use the expedited rulemaking process under section 14.389.

Subd. 9. **Except substances by rule.** The state Board of Pharmacy may by rule except any compound, mixture, or preparation containing any stimulant or depressant substance listed in subdivision 4, paragraphs (b) and (c), or in subdivisions 5 and 6 from the application of all or any part of this chapter, if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system; provided, that such admixtures shall be included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a stimulant or depressant effect on the central nervous system.

Subd. 10. **Dextromethorphan.** Dextromethorphan shall not be deemed to be included in any schedule by reason of the enactment of Laws 1971, chapter 937, unless controlled pursuant to the foregoing provisions of this section.

Subd. 11. [Repealed, 1993 c 337 s 20]

Subd. 12. **Coordination of controlled substance regulation with federal law and state statute.** (a) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law, the Board of Pharmacy may similarly and temporarily control the substance under this chapter by issuing an order and causing it to be published in the State Register and filed with the secretary of state. In issuing the order, the board is not required to engage in rulemaking. The order expires no later than 12 months after the date of issue and may not be renewed. After issuing the order, the board may permanently schedule the substance only by exercising the authority granted to it under subdivision 8.

(b) The state Board of Pharmacy shall annually submit a report to the legislature on or before December 1 that specifies what changes the board made to the controlled substance schedules maintained by the board in Minnesota Rules, parts 6800.4210 to 6800.4250, in the preceding 12 months. The report must also specify any orders issued by the board under this subdivision. The report must include specific recommendations for amending the controlled substance schedules contained in subdivisions 2 to 6, so that they conform with the controlled substance schedules maintained by the board in Minnesota Rules, parts 6800.4210 to 6800.4250, and with the federal schedules.

Subd. 13. [Repealed by amendment, 2012 c 240 s 1]

Subd. 14. **Procedural requirements.** Except as otherwise permitted in this section, the Board of Pharmacy is subject to the provisions of chapter 14 in exercising the authority granted by this chapter.

**History:** *1971 c 937 s 12; 1973 c 693 s 2-4; 1976 c 338 s 1-4; 1979 c 157 s 2-4; 1979 c 243 s 2; 1982 c 424 s 130; 1983 c 260 s 39,40; 1985 c 248 s 70; 1987 c 14 s 1; 1987 c 298 s 2; 1987 c 384 art 2 s 40; 1989 c 230 s 1; 1994 c 465 art 1 s 20-22; 1996 c 408 art 11 s 2; 1997 c 7 art 2 s 21; 1997 c 187 art 5 s 21; 1997 c 239 art 4 s 3,4,15; 1998 c 367 art 4 s 7; 1999 c 9 s 1; 1999 c 163 s 1; 2000 c 262 s 1; 2001 c 173 s 1; 1Sp2001 c 8 art 8 s 1; 2005 c 136 art 7 s 3,4; art 17 s 1,2; 1Sp2005 c 7 s 25; 2009 c 59 art 5 s 3,4; 2011*

*c 53 s 4,5; 2012 c 240 s 1; 2013 c 113 art 3 s 2; 2014 c 285 s 8; 2014 c 291 art 5 s 18; 2015 c 65 art 8 s 1-5; 2016 c 182 s 1,2; 2017 c 95 art 5 s 1-3; 2018 c 195 art 1 s 1,2; 2020 c 115 art 5 s 1-3; 2022 c 98 art 13 s 10*

## CONTROLLED SUBSTANCE CRIMES

### 152.021 CONTROLLED SUBSTANCE CRIME IN THE FIRST DEGREE.

Subdivision 1. **Sale crimes.** A person is guilty of controlled substance crime in the first degree if:

(1) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 17 grams or more containing cocaine or methamphetamine;

(2) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing cocaine or methamphetamine and:

(i) the person or an accomplice possesses on their person or within immediate reach, or uses, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm; or

(ii) the offense involves two aggravating factors;

(3) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing heroin;

(4) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 grams or more containing a narcotic drug other than cocaine, heroin, or methamphetamine;

(5) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 grams or more containing amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 200 or more dosage units; or

(6) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 25 kilograms or more containing marijuana or Tetrahydrocannabinols.

Subd. 2. **Possession crimes.** (a) A person is guilty of a controlled substance crime in the first degree if:

(1) the person unlawfully possesses one or more mixtures of a total weight of 50 grams or more containing cocaine or methamphetamine;

(2) the person unlawfully possesses one or more mixtures of a total weight of 25 grams or more containing cocaine or methamphetamine and:

(i) the person or an accomplice possesses on their person or within immediate reach, or uses, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm; or

(ii) the offense involves two aggravating factors;

(3) the person unlawfully possesses one or more mixtures of a total weight of 25 grams or more containing heroin;

(4) the person unlawfully possesses one or more mixtures of a total weight of 500 grams or more containing a narcotic drug other than cocaine, heroin, or methamphetamine;

(5) the person unlawfully possesses one or more mixtures of a total weight of 500 grams or more containing amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 500 or more dosage units; or

(6) the person unlawfully possesses one or more mixtures of a total weight of 50 kilograms or more containing marijuana or Tetrahydrocannabinols, or possesses 500 or more marijuana plants.

(b) For the purposes of this subdivision, the weight of fluid used in a water pipe may not be considered in measuring the weight of a mixture except in cases where the mixture contains four or more fluid ounces of fluid.

Subd. 2a. **Methamphetamine manufacture crime.** Notwithstanding subdivision 1, sections 152.022, subdivision 1, 152.023, subdivision 1, and 152.024, subdivision 1, a person is guilty of controlled substance crime in the first degree if the person manufactures any amount of methamphetamine.

Subd. 2b. **Aggravated controlled substance crime in the first degree.** A person is guilty of aggravated controlled substance crime in the first degree if the person violates subdivision 1, clause (1), (2), (3), (4), or (5), or subdivision 2, paragraph (a), clause (1), (2), or (3), and the person or an accomplice sells or possesses 100 or more grams or 500 or more dosage units of a mixture containing the controlled substance at issue and:

(1) the person or an accomplice possesses on their person or within immediate reach, or uses, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm; or

(2) the offense involves two aggravating factors.

Subd. 3. **Penalty.** (a) A person convicted under subdivisions 1 to 2a, paragraph (a), may be sentenced to imprisonment for not more than 30 years or to payment of a fine of not more than $1,000,000, or both.

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivisions 1 to 2a, paragraph (a), shall be committed to the commissioner of corrections for not less than four years nor more than 40 years and, in addition, may be sentenced to payment of a fine of not more than $1,000,000.

(c) If the defendant is convicted under subdivision 1, clause (1), (2), (3), (4), or (5), or subdivision 2, paragraph (a), clause (1), (2), or (3), and the defendant or an accomplice sold or possessed 100 or more grams or 500 or more dosage units of a mixture containing the controlled substance at issue, that person shall be committed to the commissioner of corrections for not less than 65 months or the presumptive fixed sentence under the Minnesota Sentencing Guidelines, whichever is greater, nor more than 40 years and may be sentenced to payment of a fine of not more than $1,000,000, or both. If a person to be sentenced under this paragraph for a conviction under subdivision 2, paragraph (a), clause (1), (2), or (3), has not previously been convicted of an offense under section 152.021, 152.022, or 152.023, or of a similar offense by the United States or another state, the prosecutor may, prior to the time of sentencing, file a motion to have the person sentenced without regard to the mandatory minimum sentence established by this paragraph. The motion shall be accompanied by a statement on the record of the reasons for it. When presented with the motion, or on its own motion, the court may sentence the person without regard to this mandatory minimum sentence if the court finds substantial and compelling reasons to do so; such a sentence is a departure from the Sentencing Guidelines.

(d) A person convicted under subdivision 2b shall be committed to the commissioner of corrections for not less than 86 months or the presumptive fixed sentence under the Minnesota Sentencing Guidelines,

whichever is greater, nor more than 40 years and may be sentenced to payment of a fine of not more than $1,000,000, or both.

(e) In a prosecution under subdivisions 1 to 2b involving sales by the same person in two or more counties within a 90-day period, the person may be prosecuted for all of the sales in any county in which one of the sales occurred.

**History:** *1989 c 290 art 3 s 8; 1990 c 602 art 7 s 1; 1991 c 279 s 3; 1992 c 359 s 4,5; 1993 c 326 art 13 s 5; 1995 c 244 s 1; 1997 c 239 art 4 s 5,6; 1998 c 367 art 4 s 1; 1Sp2003 c 2 art 8 s 2,3; 2005 c 136 art 7 s 5,6,21; 2011 c 53 s 6; 2016 c 160 s 3; 2018 c 182 art 1 s 39*

**152.022 CONTROLLED SUBSTANCE CRIME IN THE SECOND DEGREE.**

Subdivision 1. **Sale crimes.** A person is guilty of controlled substance crime in the second degree if:

(1) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing a narcotic drug other than heroin;

(2) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of three grams or more containing cocaine or methamphetamine and:

(i) the person or an accomplice possesses on their person or within immediate reach, or uses, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm; or

(ii) the offense involves three aggravating factors;

(3) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of three grams or more containing heroin;

(4) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 50 or more dosage units;

(5) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten kilograms or more containing marijuana or Tetrahydrocannabinols;

(6) the person unlawfully sells any amount of a Schedule I or II narcotic drug to a person under the age of 18, or conspires with or employs a person under the age of 18 to unlawfully sell the substance; or

(7) the person unlawfully sells any of the following in a school zone, a park zone, a public housing zone, or a drug treatment facility:

(i) any amount of a Schedule I or II narcotic drug, lysergic acid diethylamide (LSD), 3,4-methylenedioxy amphetamine, or 3,4-methylenedioxymethamphetamine;

(ii) one or more mixtures containing methamphetamine or amphetamine; or

(iii) one or more mixtures of a total weight of five kilograms or more containing marijuana or Tetrahydrocannabinols.

Subd. 2. **Possession crimes.** (a) A person is guilty of controlled substance crime in the second degree if:

(1) the person unlawfully possesses one or more mixtures of a total weight of 25 grams or more containing cocaine or methamphetamine;

(2) the person unlawfully possesses one or more mixtures of a total weight of ten grams or more containing cocaine or methamphetamine and:

(i) the person or an accomplice possesses on their person or within immediate reach, or uses, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm; or

(ii) the offense involves three aggravating factors;

(3) the person unlawfully possesses one or more mixtures of a total weight of six grams or more containing heroin;

(4) the person unlawfully possesses one or more mixtures of a total weight of 50 grams or more containing a narcotic drug other than cocaine, heroin, or methamphetamine;

(5) the person unlawfully possesses one or more mixtures of a total weight of 50 grams or more containing amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 100 or more dosage units; or

(6) the person unlawfully possesses one or more mixtures of a total weight of 25 kilograms or more containing marijuana or Tetrahydrocannabinols, or possesses 100 or more marijuana plants.

(b) For the purposes of this subdivision, the weight of fluid used in a water pipe may not be considered in measuring the weight of a mixture except in cases where the mixture contains four or more fluid ounces of fluid.

Subd. 3. **Penalty.** (a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 25 years or to payment of a fine of not more than $500,000, or both.

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be committed to the commissioner of corrections for not less than three years nor more than 40 years and, in addition, may be sentenced to payment of a fine of not more than $500,000.

(c) In a prosecution under subdivision 1 involving sales by the same person in two or more counties within a 90-day period, the person may be prosecuted for all of the sales in any county in which one of the sales occurred.

**History:** *1989 c 290 art 3 s 9; 1990 c 602 art 7 s 2; 1991 c 199 art 1 s 53; 1991 c 279 s 4; 1992 c 359 s 6,7; 1993 c 326 art 3 s 1; art 13 s 6; 1995 c 244 s 2; 1997 c 239 art 4 s 7,8; 1998 c 367 art 4 s 2; 1Sp2001 c 8 art 8 s 2; 2011 c 53 s 7; 2016 c 160 s 4*

**152.023 CONTROLLED SUBSTANCE CRIME IN THE THIRD DEGREE.**

Subdivision 1. **Sale crimes.** A person is guilty of controlled substance crime in the third degree if:

(1) the person unlawfully sells one or more mixtures containing a narcotic drug;

(2) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures containing phencyclidine or hallucinogen, it is packaged in dosage units, and equals ten or more dosage units;

(3) the person unlawfully sells one or more mixtures containing a controlled substance classified in Schedule I, II, or III, except a Schedule I or II narcotic drug, to a person under the age of 18;

(4) the person conspires with or employs a person under the age of 18 to unlawfully sell one or more mixtures containing a controlled substance listed in Schedule I, II, or III, except a Schedule I or II narcotic drug; or

(5) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of five kilograms or more containing marijuana or Tetrahydrocannabinols.

Subd. 2. **Possession crimes.** (a) A person is guilty of controlled substance crime in the third degree if:

(1) on one or more occasions within a 90-day period the person unlawfully possesses one or more mixtures of a total weight of ten grams or more containing a narcotic drug other than heroin;

(2) on one or more occasions within a 90-day period the person unlawfully possesses one or more mixtures of a total weight of three grams or more containing heroin;

(3) on one or more occasions within a 90-day period the person unlawfully possesses one or more mixtures containing a narcotic drug, it is packaged in dosage units, and equals 50 or more dosage units;

(4) on one or more occasions within a 90-day period the person unlawfully possesses any amount of a schedule I or II narcotic drug or five or more dosage units of lysergic acid diethylamide (LSD), 3,4-methylenedioxy amphetamine, or 3,4-methylenedioxymethamphetamine in a school zone, a park zone, a public housing zone, or a drug treatment facility;

(5) on one or more occasions within a 90-day period the person unlawfully possesses one or more mixtures of a total weight of ten kilograms or more containing marijuana or Tetrahydrocannabinols; or

(6) the person unlawfully possesses one or more mixtures containing methamphetamine or amphetamine in a school zone, a park zone, a public housing zone, or a drug treatment facility.

(b) For the purposes of this subdivision, the weight of fluid used in a water pipe may not be considered in measuring the weight of a mixture except in cases where the mixture contains four or more fluid ounces of fluid.

Subd. 3. **Penalty.** (a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $250,000, or both.

(b) In a prosecution under subdivision 1 or 2 involving sales or acts of possession by the same person in two or more counties within a 90-day period, the person may be prosecuted in any county in which one of the sales or acts of possession occurred.

**History:** *1989 c 290 art 3 s 10; 1990 c 602 art 7 s 3,4; 1991 c 199 art 1 s 54; 1991 c 279 s 5; 1992 c 359 s 8; 1993 c 326 art 3 s 2; art 13 s 7; 1995 c 244 s 3; 1997 c 239 art 4 s 9-11; 1998 c 367 art 4 s 3; 1Sp2001 c 8 art 8 s 3; 2011 c 53 s 8; 2016 c 160 s 5*

## 152.024 CONTROLLED SUBSTANCE CRIME IN THE FOURTH DEGREE.

Subdivision 1. **Sale crimes.** A person is guilty of controlled substance crime in the fourth degree if:

(1) the person unlawfully sells one or more mixtures containing a controlled substance classified in Schedule I, II, or III, except marijuana or Tetrahydrocannabinols;

(2) the person unlawfully sells one or more mixtures containing a controlled substance classified in Schedule IV or V to a person under the age of 18;

(3) the person conspires with or employs a person under the age of 18 to unlawfully sell a controlled substance classified in Schedule IV or V; or

(4) the person unlawfully sells any amount of marijuana or Tetrahydrocannabinols in a school zone, a park zone, a public housing zone, or a drug treatment facility, except a small amount for no remuneration.

Subd. 2. **Possession crimes.** A person is guilty of controlled substance crime in the fourth degree if:

(1) the person unlawfully possesses one or more mixtures containing phencyclidine or hallucinogen, it is packaged in dosage units, and equals ten or more dosage units; or

(2) the person unlawfully possesses one or more mixtures containing a controlled substance classified in Schedule I, II, or III, except marijuana or Tetrahydrocannabinols, with the intent to sell it.

Subd. 3. **Penalty.** A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $100,000, or both.

**History:** *1989 c 290 art 3 s 11; 1990 c 602 art 7 s 5; 1991 c 279 s 6; 1993 c 326 art 13 s 8; 1995 c 244 s 4; 1997 c 239 art 4 s 12; 2016 c 160 s 6*

**152.025 CONTROLLED SUBSTANCE CRIME IN THE FIFTH DEGREE.**

Subdivision 1. **Sale crimes.** A person is guilty of a controlled substance crime in the fifth degree and upon conviction may be sentenced as provided in subdivision 4 if:

(1) the person unlawfully sells one or more mixtures containing marijuana or tetrahydrocannabinols, except a small amount of marijuana for no remuneration; or

(2) the person unlawfully sells one or more mixtures containing a controlled substance classified in Schedule IV.

Subd. 2. **Possession and other crimes.** A person is guilty of controlled substance crime in the fifth degree and upon conviction may be sentenced as provided in subdivision 4 if:

(1) the person unlawfully possesses one or more mixtures containing a controlled substance classified in Schedule I, II, III, or IV, except a small amount of marijuana; or

(2) the person procures, attempts to procure, possesses, or has control over a controlled substance by any of the following means:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) using a false name or giving false credit; or

(iii) falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, pharmacist, physician, doctor of osteopathic medicine licensed to practice medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance.

Subd. 3. [Repealed, 2009 c 83 art 3 s 24]

Subd. 4. **Penalty.** (a) A person convicted under the provisions of subdivision 2, clause (1), who has not been previously convicted of a violation of this chapter or a similar offense in another jurisdiction, is guilty of a gross misdemeanor if: (1) the amount of the controlled substance possessed, other than heroin, is less than 0.25 grams or one dosage unit or less if the controlled substance was possessed in dosage units; or (2) the controlled substance possessed is heroin and the amount possessed is less than 0.05 grams.

(b) A person convicted under the provisions of subdivision 1; subdivision 2, clause (1), unless the conduct is described in paragraph (a); or subdivision 2, clause (2), may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

**History:** *1989 c 290 art 3 s 12; 1990 c 602 art 7 s 6; 1992 c 359 s 9; 1993 c 326 art 13 s 9; 1995 c 244 s 5; 2009 c 83 art 3 s 3,4; 2010 c 382 s 35; 2016 c 119 s 7; 2016 c 160 s 7*

**152.026 MANDATORY SENTENCES.**

A defendant convicted and sentenced to a mandatory sentence under section 152.021 or 152.022 is not eligible for probation, parole, discharge, or supervised release until that person has served the full term of imprisonment as provided by law, notwithstanding sections 242.19, 243.05, 609.12, and 609.135. "Term of imprisonment" has the meaning given in section 244.01, subdivision 8.

**History:** *1989 c 290 art 3 s 13; 1993 c 326 art 13 s 10; 2005 c 136 art 7 s 21; 2016 c 160 s 8*

**152.0261 IMPORTING CONTROLLED SUBSTANCES ACROSS STATE BORDERS.**

Subdivision 1. **Felony.** A person who crosses a state or international border into Minnesota while in possession of an amount of a controlled substance that constitutes a first-degree controlled substance crime under section 152.021, subdivision 2, is guilty of importing controlled substances and may be sentenced as provided in subdivision 3.

Subd. 1a. **Use of person under 18 to import.** A person who conspires with or employs a person under the age of 18 to cross a state or international border into Minnesota while that person or the person under the age of 18 is in possession of an amount of a controlled substance that constitutes a controlled substance crime under sections 152.021 to 152.025 and 152.0262, with the intent to obstruct the criminal justice process, is guilty of importing controlled substances and may be sentenced as provided in subdivision 3.

Subd. 2. **Jurisdiction.** A violation of this section may be charged, indicted, and tried in any county, but not more than one county, into or through which the actor has brought the controlled substance.

Subd. 3. **Penalty.** A person convicted of violating this section is guilty of a felony and may be sentenced to imprisonment for not more than 35 years or to payment of a fine of not more than $1,250,000, or both.

**History:** *1990 c 602 art 7 s 7; 1998 c 367 art 4 s 4,5; 2005 c 136 art 7 s 21*

**152.0262 POSSESSION OF SUBSTANCES WITH INTENT TO MANUFACTURE METHAMPHETAMINE CRIME.**

Subdivision 1. **Possession of precursors.** (a) A person is guilty of a crime if the person possesses any chemical reagents or precursors with the intent to manufacture methamphetamine and if convicted may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

(b) A person is guilty of a crime if the person possesses any chemical reagents or precursors with the intent to manufacture methamphetamine and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both, if the conviction is for a subsequent controlled substance conviction.

As used in this section and section 152.021, "chemical reagents or precursors" includes any of the following substances, or any similar substances that can be used to manufacture methamphetamine, or the salts, isomers, and salts of isomers of a listed or similar substance:

(1) ephedrine;

(2) pseudoephedrine;

(3) phenyl-2-propanone;

(4) phenylacetone;

(5) anhydrous ammonia;

(6) organic solvents;

(7) hydrochloric acid;

(8) lithium metal;

(9) sodium metal;

(10) ether;

(11) sulfuric acid;

(12) red phosphorus;

(13) iodine;

(14) sodium hydroxide;

(15) benzaldehyde;

(16) benzyl methyl ketone;

(17) benzyl cyanide;

(18) nitroethane;

(19) methylamine;

(20) phenylacetic acid;

(21) hydriodic acid; or

(22) hydriotic acid.

Subd. 2. [Repealed, 2009 c 83 art 2 s 50]

**History:** *1989 c 290 art 3 s 8; 1990 c 602 art 7 s 1; 1991 c 279 s 3; 1992 c 359 s 4,5; 1993 c 326 art 13 s 5; 1995 c 244 s 1; 1997 c 239 art 4 s 5,6; 1998 c 367 art 4 s 1; 1Sp2003 c 2 art 8 s 2,3; 2005 c 136 art 7 s 5,6,21; 2009 c 83 art 2 s 8*

## 152.027 OTHER CONTROLLED SUBSTANCE OFFENSES.

Subdivision 1. **Sale of Schedule V controlled substance.** Except as provided in section 152.02, subdivision 6, a person who unlawfully sells one or more mixtures containing a controlled substance classified in Schedule V may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Subd. 2. **Possession of Schedule V controlled substance.** Except as provided in section 152.02, subdivision 6, a person who unlawfully possesses one or more mixtures containing a controlled substance classified in Schedule V may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both. The court may order that a person who is convicted under this subdivision and placed on probation be required to take part in a drug education program as specified by the court.

Subd. 3. **Possession of marijuana in a motor vehicle.** A person is guilty of a misdemeanor if the person is the owner of a private motor vehicle, or is the driver of the motor vehicle if the owner is not present, and possesses on the person, or knowingly keeps or allows to be kept within the area of the vehicle normally occupied by the driver or passengers, more than 1.4 grams of marijuana. This area of the vehicle does not include the trunk of the motor vehicle if the vehicle is equipped with a trunk, or another area of the vehicle not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk. A utility or glove compartment is deemed to be within the area occupied by the driver and passengers.

Subd. 4. **Possession or sale of small amounts of marijuana.** (a) A person who unlawfully sells a small amount of marijuana for no remuneration, or who unlawfully possesses a small amount of marijuana is guilty of a petty misdemeanor and shall be required to participate in a drug education program unless the court enters a written finding that a drug education program is inappropriate. The program must be approved by an area mental health board with a curriculum approved by the state alcohol and drug abuse authority.

(b) A person convicted of an unlawful sale under paragraph (a) who is subsequently convicted of an unlawful sale under paragraph (a) within two years is guilty of a misdemeanor and shall be required to participate in a chemical dependency evaluation and treatment if so indicated by the evaluation.

(c) A person who is convicted of a petty misdemeanor under paragraph (a) who willfully and intentionally fails to comply with the sentence imposed, is guilty of a misdemeanor. Compliance with the terms of the sentence imposed before conviction under this paragraph is an absolute defense.

Subd. 5. **Sale or possession of salvia divinorum.** (a) A person who unlawfully sells any amount of salvia divinorum or salvinorin A is guilty of a gross misdemeanor.

(b) A person who unlawfully possesses any amount of salvia divinorum or salvinorin A is guilty of a misdemeanor.

Subd. 6. **Sale or possession of synthetic cannabinoids.** (a) As used in this subdivision, "synthetic cannabinoid" includes any substance included in section 152.02, subdivision 2, paragraph (h), clause (3).

(b) A person who unlawfully sells a synthetic cannabinoid for no remuneration is guilty of a gross misdemeanor.

(c) A person who unlawfully sells a synthetic cannabinoid is guilty of a felony and if convicted may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

(d) A person who unlawfully possesses any amount of a synthetic cannabinoid is guilty of a misdemeanor.

(e) Notwithstanding any contrary provision in sections 152.021 to 152.025, this subdivision describes the exclusive penalties for the sale and possession of synthetic cannabinoid.

Subd. 7. **Sale or possession of kratom.** (a) A person who unlawfully sells any amount of kratom or a substance that contains mitragynine or 7-hydroxymitragynine to a person under the age of 18 is guilty of a gross misdemeanor.

(b) A person under the age of 18 who unlawfully possesses any amount of kratom or a substance that contains mitragynine or 7-hydroxymitragynine is guilty of a misdemeanor.

**History:** *1989 c 290 art 3 s 14; 2005 c 10 art 3 s 8; 2005 c 136 art 7 s 7,8; 2010 c 368 s 1; 2011 c 53 s 9; 2011 c 76 art 1 s 20; 2012 c 240 s 2; 2018 c 195 art 1 s 3*

## LOCATION OF USE, SALE, MANUFACTURE; RESTITUTION

### 152.0271 NOTICE OF DRUG CONVICTIONS; DRIVER'S LICENSE REVOCATION.

When a person is convicted of violating a provision of sections 152.021 to 152.027 and 152.0262, the sentencing court shall determine whether the person unlawfully sold or possessed the controlled substance while driving a motor vehicle. If so, the court shall notify the commissioner of public safety of its determination and order the commissioner to revoke the person's driver's license for 30 days. If the person does not have a driver's license or if the person's driver's license is suspended or revoked at the time of the conviction, the commissioner shall delay the issuance or reinstatement of the person's driver's license for 30 days after the person applies for the issuance or reinstatement of the license. Upon receipt of the court's order, the commissioner is authorized to take the licensing action without a hearing.

**History:** *1993 c 347 s 1; 2005 c 136 art 7 s 21*

### 152.0273 SYNTHETIC DRUG SALES; MANDATORY RESTITUTION.

The court shall order a person convicted of selling a controlled substance or analog of a controlled substance under the false pretense that the substance is legal to pay restitution for the costs and expenses resulting from the crime. Costs and expenses include, but are not limited to, the medical costs of persons who consumed the substances sold by the offender and the reasonable costs incurred by public and private entities that provided an emergency response to a person who consumed the substances sold by the offender.

**History:** *2014 c 285 s 9*

### 152.0275 CERTAIN CONTROLLED SUBSTANCE OFFENSES; RESTITUTION; PROHIBITIONS ON PROPERTY USE; NOTICE PROVISIONS.

Subdivision 1. **Restitution.** (a) As used in this subdivision:

(1) "clandestine lab site" means any structure or conveyance or outdoor location occupied or affected by conditions or chemicals typically associated with the manufacturing of methamphetamine;

(2) "emergency response" includes, but is not limited to, removing and collecting evidence, securing the site, removal, remediation, and hazardous chemical assessment or inspection of the site where the relevant offense or offenses took place, regardless of whether these actions are performed by the public entities themselves or by private contractors paid by the public entities, or the property owner;

(3) "remediation" means proper cleanup, treatment, or containment of hazardous substances or methamphetamine at or in a clandestine lab site, and may include demolition or disposal of structures or other property when an assessment so indicates; and

(4) "removal" means the removal from the clandestine lab site of precursor or waste chemicals, chemical containers, or equipment associated with the manufacture, packaging, or storage of illegal drugs.

(b) A court may require a person convicted of manufacturing or attempting to manufacture a controlled substance or of an illegal activity involving a precursor substance, where the response to the crime involved an emergency response, to pay restitution to all public entities that participated in the response. The restitution ordered may cover the reasonable costs of their participation in the response.

(c) In addition to the restitution authorized in paragraph (b), a court may require a person convicted of manufacturing or attempting to manufacture a controlled substance or of illegal activity involving a precursor substance to pay restitution to a property owner who incurred removal or remediation costs because of the crime.

Subd. 2. **Property-related prohibitions; notice; website.** (a) As used in this subdivision:

(1) "clandestine lab site" has the meaning given in subdivision 1, paragraph (a);

(2) "property" means publicly or privately owned real property including buildings and other structures, motor vehicles as defined in section 609.487, subdivision 2a, public waters, and public rights-of-way;

(3) "remediation" has the meaning given in subdivision 1, paragraph (a); and

(4) "removal" has the meaning given in subdivision 1, paragraph (a).

(b) A peace officer who arrests a person at a clandestine lab site shall notify the appropriate county or local health department, state duty officer, and child protection services of the arrest and the location of the site.

(c) A county or local health department or sheriff shall order that any property or portion of a property that has been found to be a clandestine lab site and contaminated by substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine be prohibited from being occupied or used until it has been assessed and remediated as provided in the Department of Health's clandestine drug labs general cleanup guidelines. The remediation shall be accomplished by a contractor who will make the verification required under paragraph (e).

(d) Unless clearly inapplicable, the procedures specified in chapter 145A and any related rules adopted under that chapter addressing the enforcement of public health laws, the removal and abatement of public health nuisances, and the remedies available to property owners or occupants apply to this subdivision.

(e) Upon the proper removal and remediation of any property used as a clandestine lab site, the contractor shall verify to the property owner and the applicable authority that issued the order under paragraph (c) that the work was completed according to the Department of Health's clandestine drug labs general cleanup guidelines and best practices. The contractor shall provide the verification to the property owner and the applicable authority within five days from the completion of the remediation. Following this, the applicable authority shall vacate its order.

(f) If a contractor issues a verification and the property was not remediated according to the Department of Health's clandestine drug labs general cleanup guidelines, the contractor is liable to the property owner for the additional costs relating to the proper remediation of the property according to the guidelines and for reasonable attorney fees for collection of costs by the property owner. An action under this paragraph must be commenced within six years from the date on which the verification was issued by the contractor.

(g) If the applicable authority determines under paragraph (c) that a motor vehicle has been contaminated by substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine and if the authority is able to obtain the certificate of title for the motor vehicle, the authority shall notify the registrar of motor vehicles of this fact and in addition, forward the certificate of title to the registrar. The authority shall also notify the registrar when it vacates its order under paragraph (e).

(h) The applicable authority issuing an order under paragraph (c) shall record with the county recorder or registrar of titles of the county where the clandestine lab is located an affidavit containing the name of the owner, a legal description of the property where the clandestine lab was located, and a map drawn from available information showing the boundary of the property and the location of the contaminated area on the property that is prohibited from being occupied or used that discloses to any potential transferee:

(1) that the property, or portion of the property, was the site of a clandestine lab;

(2) the location, condition, and circumstances of the clandestine lab, to the full extent known or reasonably ascertainable; and

(3) that the use of the property or some portion of it may be restricted as provided by paragraph (c).

If an inaccurate drawing or description is filed, the authority, on request of the owner or another interested person, shall file a supplemental affidavit with a corrected drawing or description.

If the authority vacates its order under paragraph (e), the authority shall record an affidavit that contains the recording information of the above affidavit and states that the order is vacated. Upon filing the affidavit vacating the order, the affidavit and the affidavit filed under this paragraph, together with the information set forth in the affidavits, cease to constitute either actual or constructive notice.

(i) If proper removal and remediation has occurred on the property, an interested party may record an affidavit indicating that this has occurred. Upon filing the affidavit described in this paragraph, the affidavit and the affidavit filed under paragraph (h), together with the information set forth in the affidavits, cease to constitute either actual or constructive notice. Failure to record an affidavit under this section does not affect or prevent any transfer of ownership of the property.

(j) The county recorder or registrar of titles must record all affidavits presented under paragraph (h) or (i) in a manner that ensures their disclosure in the ordinary course of a title search of the subject property.

(k) The commissioner of health shall post on the Internet contact information for each local community health services administrator.

(l) Each local community health services administrator shall maintain information related to property within the administrator's jurisdiction that is currently or was previously subject to an order issued under paragraph (c). The information maintained must include the name of the owner, the location of the property, the extent of the contamination, the status of the removal and remediation work on the property, and whether the order has been vacated. The administrator shall make this information available to the public either upon request or by other means.

(m) Before signing an agreement to sell or transfer real property, the seller or transferor must disclose in writing to the buyer or transferee if, to the seller's or transferor's knowledge, methamphetamine production has occurred on the property. If methamphetamine production has occurred on the property, the disclosure shall include a statement to the buyer or transferee informing the buyer or transferee:

(1) whether an order has been issued on the property as described in paragraph (c);

(2) whether any orders issued against the property under paragraph (c) have been vacated under paragraph (j); or

(3) if there was no order issued against the property and the seller or transferor is aware that methamphetamine production has occurred on the property, the status of removal and remediation on the property.

(n) Unless the buyer or transferee and seller or transferor agree to the contrary in writing before the closing of the sale, a seller or transferor who fails to disclose, to the best of their knowledge, at the time of sale any of the facts required, and who knew or had reason to know of methamphetamine production on the property, is liable to the buyer or transferee for:

(1) costs relating to remediation of the property according to the Department of Health's clandestine drug labs general cleanup guidelines and best practices; and

(2) reasonable attorney fees for collection of costs from the seller or transferor.

An action under this paragraph must be commenced within six years after the date on which the buyer or transferee closed the purchase or transfer of the real property where the methamphetamine production occurred.

(o) This section preempts all local ordinances relating to the sale or transfer of real property designated as a clandestine lab site.

**History:** *2005 c 136 art 7 s 9*

**152.028 PERMISSIVE INFERENCE OF KNOWING POSSESSION.**

Subdivision 1. **Residences.** The presence of a controlled substance in open view in a room, other than a public place, under circumstances evincing an intent by one or more of the persons present to unlawfully mix, compound, package, or otherwise prepare for sale the controlled substance permits the fact finder to infer knowing possession of the controlled substance by each person in close proximity to the controlled substance when the controlled substance was found. The permissive inference does not apply to any person if:

(1) one of them legally possesses the controlled substance; or

(2) the controlled substance is on the person of one of the occupants.

Subd. 2. **Passenger automobiles.** The presence of a controlled substance in a passenger automobile permits the fact finder to infer knowing possession of the controlled substance by the driver or person in control of the automobile when the controlled substance was in the automobile. This inference may only be made if the defendant is charged with violating section 152.021, 152.022, 152.023, 152.0261, or 152.0262. The inference does not apply:

(1) to a duly licensed operator of an automobile who is at the time operating it for hire in the lawful and proper pursuit of the operator's trade;

(2) to any person in the automobile if one of them legally possesses a controlled substance; or

(3) when the controlled substance is concealed on the person of one of the occupants.

**History:** *1989 c 290 art 3 s 15; 1990 c 602 art 7 s 8; 2005 c 136 art 7 s 21*

### 152.029 PUBLIC INFORMATION; SCHOOL ZONES, PARK ZONES, PUBLIC HOUSING ZONES, AND DRUG TREATMENT FACILITIES.

The attorney general shall disseminate information to the public relating to the penalties for committing controlled substance crimes in park zones, school zones, public housing zones, and drug treatment facilities. The attorney general shall draft a plain language version of sections 152.022 and 152.023 and relevant provisions of the Sentencing Guidelines, that describes in a clear and coherent manner using words with common and everyday meanings the content of those provisions. The attorney general shall publicize and disseminate the plain language version as widely as practicable, including distributing the version to school boards, local governments, and administrators and occupants of drug treatment facilities and public housing.

**History:** *1989 c 290 art 3 s 16; 1991 c 279 s 7; 1997 c 239 art 4 s 13*

**152.03** [Repealed, 1969 c 933 s 22]

**152.04** [Repealed, 1969 c 933 s 22]

**152.041** [Repealed, 1971 c 937 s 22]

**152.05** [Repealed, 1969 c 933 s 22]

**152.06** [Repealed, 1969 c 933 s 22]

**152.07** [Repealed, 1969 c 933 s 22]

**152.08** [Repealed, 1969 c 933 s 22]

**152.09** [Repealed, 1989 c 290 art 3 s 37]

## DRUG PARAPHERNALIA

### 152.092 POSSESSION OF DRUG PARAPHERNALIA PROHIBITED.

(a) It is unlawful for any person knowingly or intentionally to use or to possess drug paraphernalia. Any violation of this section is a petty misdemeanor.

(b) A person who violates paragraph (a) and has previously violated paragraph (a) on two or more occasions has committed a crime and may be sentenced to imprisonment for up to 90 days or to payment of a fine up to $1,000, or both.

**History:** *1982 c 557 s 2; 2016 c 160 s 9*

### 152.093 MANUFACTURE OR DELIVERY OF DRUG PARAPHERNALIA PROHIBITED.

It is unlawful for any person knowingly or intentionally to deliver drug paraphernalia or knowingly or intentionally to possess or manufacture drug paraphernalia for delivery. Any violation of this section is a misdemeanor.

**History:** *1982 c 557 s 3*

### 152.094 DELIVERY OF DRUG PARAPHERNALIA TO A MINOR PROHIBITED.

Any person 18 years of age or older who violates section 152.093 by knowingly or intentionally delivering drug paraphernalia to a person under 18 years of age who is at least three years younger is guilty of a gross misdemeanor.

**History:** *1982 c 557 s 4; 1986 c 444*

### 152.095 ADVERTISEMENT OF DRUG PARAPHERNALIA PROHIBITED.

It is unlawful for any person knowingly or intentionally to place in any newspaper, magazine, handbill, or other publication any advertisement or promotion for the sale of drug paraphernalia. A violation of this section is a misdemeanor.

**History:** *1982 c 557 s 5*

## CONSPIRACIES

### 152.096 CONSPIRACIES PROHIBITED.

Subdivision 1. **Prohibited acts; penalties.** Any person who conspires to commit any act prohibited by this chapter, except possession or distribution for no remuneration of a small amount of marijuana as defined in section 152.01, subdivision 16, is guilty of a felony and upon conviction may be imprisoned, fined, or both, up to the maximum amount authorized by law for the act the person conspired to commit.

Subd. 2. **Conviction of coconspirator not required.** A person liable under this section may be charged with and convicted of conspiracy although the person or persons with whom that person conspired have not been convicted or have been convicted of some other crime based on the same act.

**History:** *1982 c 557 s 6; 1986 c 444; 1989 c 290 art 3 s 17*

## SIMULATED CONTROLLED SUBSTANCES

### 152.097 SIMULATED CONTROLLED SUBSTANCES.

Subdivision 1. **Prohibition.** It is unlawful for any person knowingly to manufacture, sell, transfer or deliver or attempt to sell, transfer or deliver a noncontrolled substance upon:

(1) the express representation that the noncontrolled substance is a narcotic or nonnarcotic controlled substance; or

(2) the express representation that the substance is of such nature or appearance that the recipient of the delivery will be able to sell, transfer or deliver the substance as a controlled substance; or

(3) under circumstances which would lead a reasonable person to believe that the substance was a controlled substance. Any of the following factors shall constitute relevant evidence:

(i) the noncontrolled substance was packaged in a manner normally used for the illegal delivery of controlled substances; or

(ii) the delivery or attempted delivery included an exchange of or demand for money or other valuable property as consideration for delivery of the noncontrolled substance, and the amount of the consideration was substantially in excess of the reasonable value of the noncontrolled substance; or

(iii) the physical appearance of the noncontrolled substance is substantially identical to a specified controlled substance.

Subd. 2. **No defense.** In any prosecution under this section, it is no defense that the accused believed the noncontrolled substance to actually be a controlled substance.

Subd. 3. **Exemption.** This section does not apply to the prescribing and dispensing of placebos by licensed practitioners and licensed pharmacists.

Subd. 4. **Penalty.** A person who violates this section may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $20,000, or both. Sentencing for a conviction for attempting to sell, transfer, or deliver a noncontrolled substance in violation of this section is governed by section 609.17, subdivision 4.

**History:** *1982 c 599 s 1; 1989 c 290 art 3 s 18*

## PRECURSORS OF CONTROLLED SUBSTANCES

### 152.0971 TERMS.

Subdivision 1. **Terms.** For purposes of sections 152.0971 to 152.0974, the following terms have the meanings given.

Subd. 1a. **Authorized agent.** An "authorized agent" is an individual representing a business who is responsible for the disbursement or custody of precursor substances.

Subd. 2. **Furnish.** "Furnish" means to sell, transfer, deliver, send, or supply a precursor substance by any other means.

Subd. 2a. **Purchaser.** A "purchaser" is a manufacturer, wholesaler, retailer, or any other person in this state who receives or seeks to receive a precursor substance.

Subd. 2b. **Receive.** "Receive" means to purchase, receive, collect, or otherwise obtain a precursor substance from a supplier.

Subd. 3. **Supplier.** A "supplier" is a manufacturer, wholesaler, retailer, or any other person in this or any other state who furnishes a precursor substance to another person in this state.

**History:** *1990 c 565 s 22; 1993 c 326 art 3 s 3-6*

### 152.0972 PRECURSORS OF CONTROLLED SUBSTANCES.

Subdivision 1. **Precursor substances.** The following precursors of controlled substances are "precursor substances":

(1) phenyl-2-propanone;

(2) methylamine;

(3) ethylamine;

(4) d-lysergic acid;

(5) ergotamine tartrate;

(6) diethyl malonate;

(7) malonic acid;

(8) hydriodic acid;

(9) ethyl malonate;

(10) barbituric acid;

(11) piperidine;

(12) n-acetylanthranilic acid;

(13) pyrrolidine;

(14) phenylacetic acid;

(15) anthranilic acid;

(16) ephedrine;

(17) pseudoephedrine;

(18) norpseudoephedrine;

(19) phenylpropanolamine;

(20) propionic anhydride;

(21) isosafrole;

(22) safrole;

(23) piperonal;

(24) thionylchloride;

(25) benzyl cyanide;

(26) ergonovine maleate;

(27) n-methylephedrine;

(28) n-ethylpseudoephedrine;

(29) n-methylpseudoephedrine;

(30) chloroephedrine;

(31) chloropseudoephedrine; and

(32) any substance added to this list by rule adopted by the state Board of Pharmacy.

Subd. 2. **Adoption of rules.** The state Board of Pharmacy may adopt rules under chapter 14 that add a substance to the list in subdivision 1, if the substance is a precursor to a controlled substance, or delete a

substance from the list. A rule adding or deleting a substance is effective only until December 31 of the year following the calendar year during which the rule was adopted.

**History:** *1990 c 565 s 23; 1993 c 326 art 3 s 7*

**152.0973 REPORT OF TRANSACTION.**

Subdivision 1. **Predelivery notice.** A supplier who furnishes a precursor substance to a person in this state shall, not less than 21 days before delivery of the substance, submit to the Bureau of Criminal Apprehension a report of the transaction that includes the identification information specified in subdivision 3.

Subd. 1a. **Report of precursor substances received from out of state.** A purchaser of a precursor substance from outside of Minnesota shall, not less than 21 days before taking possession of the substance, submit to the Bureau of Criminal Apprehension a report of the transaction that includes the identification information specified in subdivision 3.

Subd. 2. **Regular reports.** The bureau may authorize a purchaser or supplier to submit the reports on a monthly basis with respect to repeated, regular transactions between the supplier and the purchaser involving the same substance if the superintendent of the Bureau of Criminal Apprehension determines that:

(1) a pattern of regular supply of the precursor substance exists between the supplier and the purchaser of the substance; or

(2) the purchaser has established a record of utilizing the precursor substance for lawful purposes.

Subd. 2a. **Report of missing precursor substance.** A supplier or purchaser who discovers a discrepancy between the quantity of precursor substance shipped and the quantity of precursor substance received shall report the discrepancy to the Bureau of Criminal Apprehension within three days of knowledge of the discrepancy. The report must include:

(1) the complete name and address of the purchaser;

(2) the type of precursor substance missing;

(3) whether the precursor substance is missing due to theft, loss, or shipping discrepancy;

(4) the method of delivery used;

(5) the name of the common carrier or person who transported the substance; and

(6) the date of shipment.

Subd. 3. **Proper identification.** A report submitted by a supplier or purchaser under this section must include:

(1) the purchaser's driver's license number or state identification number and residential or mailing address other than a post office box number taken from the purchaser's driver's license or state identification card, if the purchaser is not an authorized agent;

(2) the motor vehicle license number of the motor vehicle operated by the purchaser at the time of sale, if the purchaser is not an authorized agent;

(3) a complete description of how the precursor substance will be used, if the purchaser is not an authorized agent;

(4) a letter of authorization from the business for which the precursor substance is being furnished, including the state tax identification number and address of the business, a full description of how the precursor substance is to be used, and the signature of the authorized agent for the purchaser;

(5) the signature of the supplier as a witness to the signature and identification of the purchaser;

(6) the type and quantity of the precursor substance;

(7) the method of delivery used; and

(8) the complete name and address of the supplier.

Subd. 4. **Retention of records.** A supplier shall retain a copy of reports filed under subdivisions 1, 2, and 2a for five years. A purchaser shall retain a copy of reports filed under subdivisions 1a and 2a for five years.

Subd. 5. **Inspections.** All records relating to sections 152.0971 to 152.0974 shall be open to inspection by the Bureau of Criminal Apprehension during regular business hours.

Subd. 6. **Penalties.** (a) A person who does not submit a report as required by this section is guilty of a misdemeanor.

(b) A person who knowingly submits a report required by this section with false or fictitious information is guilty of a gross misdemeanor.

(c) A person who is convicted a second or subsequent time of violating paragraph (a) is guilty of a gross misdemeanor if the subsequent offense occurred after the earlier conviction.

**History:** *1990 c 565 s 24; 1993 c 326 art 3 s 8-14*

**152.0974 EXCEPTIONS.**

Sections 152.0971 to 152.0974 do not apply to:

(1) a pharmacist or other authorized person who sells or furnishes a precursor substance on the prescription of a physician, dentist, podiatrist, or veterinarian;

(2) a physician, dentist, podiatrist, or veterinarian who administers or furnishes a precursor substance to patients;

(3) a manufacturer or wholesaler licensed by the state Board of Pharmacy who sells, transfers, or otherwise furnishes a precursor substance to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian; or

(4) the furnishing or receipt of a drug that contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine and is lawfully furnished over the counter without a prescription under the Federal Food, Drug, and Cosmetic Act, United States Code, title 21, chapter 9, or regulations adopted under that act.

**History:** *1990 c 565 s 25*

## SALES AND RECORDS

### 152.10 SALES, PERSONS ELIGIBLE.

No person other than a licensed pharmacist, assistant pharmacist or pharmacist intern under the supervision of a pharmacist shall sell a stimulant or depressant drug and then only as provided in sections 152.021 to 152.12 and 152.0262.

**History:** *(3906-13) 1939 c 102 s 3; 1967 c 408 s 5; 1991 c 199 art 2 s 1; 2005 c 136 art 7 s 21*

### 152.101 MANUFACTURERS, RECORDS.

Subdivision 1. **Preparation of record.** Every person engaged in manufacturing, compounding, processing, selling, delivering or otherwise disposing of any controlled substance shall, upon July 1, 1971, May 1, 1973, and every second year thereafter, prepare a complete and accurate record of all stocks of each controlled substance on hand and shall keep such record for two years. When additional controlled substances are designated after July 1, 1971, a similar record must be prepared upon the effective date of their designation. On and after July 1, 1971, every person manufacturing, compounding or processing any controlled substance shall prepare and keep, for not less than two years, a complete and accurate record of the kind and quantity of each drug manufactured, compounded or processed and the date of such manufacture, compounding, or processing; and every person selling, delivering, or otherwise disposing of any controlled substance shall prepare or obtain, and keep for not less than two years, a complete and accurate record of the kind and quantity of each such controlled substance received, sold, delivered, or otherwise disposed of, the name and address from whom it was received and to whom it was sold, delivered or otherwise disposed of, and the date of such transaction. The form of such records shall be prescribed by the state board of pharmacy.

Subd. 2. **Application to doctors.** This section shall not apply to a licensed doctor of medicine, a doctor of osteopathic medicine duly licensed to practice medicine, a licensed doctor of dentistry, a licensed doctor of podiatry, or licensed doctor of veterinary medicine in the course of that doctor's professional practice, unless such practitioner regularly engages in dispensing any such drugs to the practitioner's patients for which the patients are charged, either separately or together with charges for other professional services.

Subd. 3. **Research exception.** This section shall not apply to a person engaged in bona fide research conducted under an exemption granted under applicable federal law.

**History:** *1967 c 408 s 6; 1971 c 937 s 14; 1973 c 693 s 6; 1986 c 444; 2016 c 119 s 7*

## DISPOSAL

### 152.105 DISPOSAL.

Subdivision 1. **Disposal of controlled substances.** Controlled substances listed in section 152.02, subdivisions 3 to 6, may be collected and disposed of only pursuant to the provisions of Code of Federal Regulations, title 21, parts 1300, 1301, 1304, 1305, 1307, and 1317, that are applicable to the disposal of controlled substances. Disposal of controlled substances and legend and nonlegend drugs must also comply with the requirements of section 116.07 governing the disposal of hazardous waste, and the rules promulgated thereunder.

Subd. 2. **Sheriff to maintain collection receptacle.** (a) The sheriff of each county shall maintain or contract for the maintenance of at least one collection receptacle for the disposal of noncontrolled substances, pharmaceutical controlled substances, and other legend drugs, as permitted by federal law. For purposes of

this section, "legend drug" has the meaning given in section 151.01, subdivision 17. The collection receptacle must comply with federal law. In maintaining and operating the collection receptacle, the sheriff shall follow all applicable provisions of Code of Federal Regulations, title 21, parts 1300, 1301, 1304, 1305, 1307, and 1317, as amended through May 1, 2017.

(b) A sheriff may meet the requirements of paragraph (a) by providing public educational information and making an alternative method available to the public, at no charge, for safely destroying unwanted legend drugs, including an at-home prescription drug deactivation and disposal product, so long as the alternative method meets the requirements of the Minnesota Pollution Control Agency, the United States Drug Enforcement Administration, and the Board of Pharmacy.

**History:** *2016 c 124 s 8; 2017 c 95 art 3 s 4; 2019 c 63 art 2 s 5*

## PRESCRIPTIONS

### 152.11 PRESCRIPTIONS.

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

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

(c) A prescription for a controlled substance in Schedule II, III, IV, or V that is transmitted by facsimile, either computer to facsimile machine or facsimile machine to facsimile machine, is void unless it complies with the applicable requirements of Code of Federal Regulations, title 21, part 1306.

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

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

Subd. 1a. **Prescription requirements for Schedule II controlled substances.** No person may dispense a controlled substance included in Schedule II of section 152.02 without a prescription issued by a doctor of medicine, a doctor of osteopathic medicine licensed to practice medicine, a doctor of dental surgery, a doctor of dental medicine, a doctor of podiatry, or a doctor of veterinary medicine, lawfully licensed to prescribe in this state or by a practitioner licensed to prescribe controlled substances by the state in which the prescription is issued, and having a current federal Drug Enforcement Administration registration number.

The prescription must either be printed or written in ink and contain the handwritten signature of the prescriber or be transmitted electronically or by facsimile as permitted under subdivision 1. Provided that in emergency situations, as authorized by federal law, such drug may be dispensed upon oral prescription reduced promptly to writing and filed by the pharmacist. Such prescriptions shall be retained in conformity with section 152.101. No prescription for a Schedule II substance may be refilled.

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

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

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

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

Subd. 2d. **Identification requirement for controlled substance prescriptions.** No person may dispense a controlled substance included in Schedules II through V without requiring the person purchasing the controlled substance, who need not be the patient for whom the controlled substance prescription is written, to present valid photographic identification, unless the person purchasing the controlled substance is known to the dispenser. A doctor of veterinary medicine who dispenses a controlled substance must comply with this subdivision.

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

Subd. 4. **Limit on quantity of opiates prescribed.** (a) When used for the treatment of acute pain, prescriptions for opiates or narcotic pain relievers listed in Schedules II through IV in section 152.02 shall

not exceed a seven-day supply for an adult and shall not exceed a five-day supply for a minor under 18 years of age.

(b) Notwithstanding paragraph (a), when used for the treatment of acute dental pain, including acute pain associated with wisdom teeth extraction surgery or acute pain associated with refractive surgery, prescriptions for opiate or narcotic pain relievers listed in Schedules II through IV of section 152.02 shall not exceed a four-day supply.

(c) For the purposes of this subdivision, "acute pain" means pain resulting from disease, accidental or intentional trauma, surgery, or another cause, that the practitioner reasonably expects to last only a short period of time. Acute pain does not include chronic pain or pain being treated as part of cancer care, palliative care, or hospice or other end-of-life care.

(d) Notwithstanding paragraph (a) or (b), if, in the professional clinical judgment of a practitioner, more than the limit specified in paragraph (a) or (b) is required to treat a patient's acute pain, the practitioner may issue a prescription for the quantity needed to treat the patient's acute pain.

**History:** *(3906-14) 1939 c 102 s 4; 1939 c 193 s 4; 1955 c 185 s 2; 1967 c 408 s 7; 1971 c 937 s 15; 1973 c 693 s 7; 1986 c 444; 1993 c 82 s 2; 1994 c 465 art 1 s 23; 1995 c 66 s 1,2; 1998 c 316 s 1-3; 2003 c 62 s 8; 2004 c 242 s 1,2; 2007 c 147 art 11 s 6; art 12 s 8; 2012 c 246 s 1; 2016 c 119 s 7; 1Sp2017 c 6 art 12 s 2; 2019 c 63 art 2 s 6-8; 2020 c 71 art 2 s 8*

**152.12 HEALTH CARE PROVIDERS MAY PRESCRIBE.**

Subdivision 1. **Prescribing, dispensing, administering controlled substances in Schedules II through V.** A licensed doctor of medicine, a doctor of osteopathic medicine, duly licensed to practice medicine, a doctor of dental surgery, a doctor of dental medicine, a licensed doctor of podiatry, a licensed advanced practice registered nurse, a licensed physician assistant, or a licensed doctor of optometry limited to Schedules IV and V, and in the course of professional practice only, may prescribe, administer, and dispense a controlled substance included in Schedules II through V of section 152.02, may cause the same to be administered by a nurse, an intern or an assistant under the direction and supervision of the doctor, and may cause a person who is an appropriately certified and licensed health care professional to prescribe and administer the same within the expressed legal scope of the person's practice as defined in Minnesota Statutes.

Subd. 2. **Doctor of veterinary medicine.** A licensed doctor of veterinary medicine, in good faith, and in the course of professional practice only, and not for use by a human being, may prescribe, administer, and dispense a controlled substance included in Schedules II through V of section 152.02, and may cause the same to be administered by an assistant under the direction and supervision of the doctor.

Subd. 3. **Research project use of controlled substances.** Any qualified person may use controlled substances in the course of a bona fide research project but cannot administer or dispense such drugs to human beings unless such drugs are prescribed, dispensed and administered by a person lawfully authorized to do so. Every person who engages in research involving the use of such substances shall apply annually for registration by the state Board of Pharmacy and shall pay any applicable fee specified in section 151.065, provided that such registration shall not be required if the person is covered by and has complied with federal laws covering such research projects.

Subd. 4. **Sale of controlled substances not prohibited for certain persons and entities.** Nothing in this chapter shall prohibit the sale to, or the possession of, a controlled substance in Schedule II, III, IV or V by: Registered drug wholesalers, registered manufacturers, registered pharmacies, or any licensed hospital or other licensed institutions wherein sick and injured persons are cared for or treated, or bona fide hospitals

wherein animals are treated; or by licensed pharmacists, licensed doctors of medicine, doctors of osteopathic medicine duly licensed to practice medicine, licensed doctors of dental surgery, licensed doctors of dental medicine, licensed doctors of podiatry, licensed doctors of optometry limited to Schedules IV and V, or licensed doctors of veterinary medicine when such practitioners use controlled substances within the course of their professional practice only.

Nothing in this chapter shall prohibit the possession of a controlled substance in Schedule II, III, IV or V by an employee or agent of a registered drug wholesaler, registered manufacturer, or registered pharmacy, while acting in the course of employment; by a patient of a licensed doctor of medicine, a doctor of osteopathic medicine duly licensed to practice medicine, a licensed doctor of dental surgery, a licensed doctor of dental medicine, or a licensed doctor of optometry limited to Schedules IV and V; or by the owner of an animal for which a controlled substance has been prescribed by a licensed doctor of veterinary medicine, when such controlled substances are dispensed according to law.

Subd. 5. **Analytical laboratory not prohibited from providing anonymous analysis service.** Nothing in this chapter shall prohibit an analytical laboratory from conducting an anonymous analysis service when such laboratory is registered by the Federal Drug Enforcement Administration, nor prohibit the possession of a controlled substance by an employee or agent of such analytical laboratory while acting in the course of employment.

**History:** *(3906-15) 1939 c 102 s 5; 1967 c 408 s 8; 1971 c 937 s 16; 1973 c 693 s 8,9; 1974 c 369 s 2; 1986 c 444; 1988 c 440 s 3; 2003 c 62 s 9,10; 1Sp2011 c 9 art 5 s 27; 2014 c 235 s 39; 2016 c 119 s 7; 2020 c 115 art 2 s 27*

**152.125 INTRACTABLE PAIN.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the terms in this subdivision have the meanings given.

(b) "Drug diversion" means the unlawful transfer of prescription drugs from their licit medical purpose to the illicit marketplace.

(c) "Intractable pain" means a pain state in which the cause of the pain cannot be removed or otherwise treated with the consent of the patient and in which, in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible, or none has been found after reasonable efforts. Conditions associated with intractable pain may include cancer and the recovery period, sickle cell disease, noncancer pain, rare diseases, orphan diseases, severe injuries, and health conditions requiring the provision of palliative care or hospice care. Reasonable efforts for relieving or curing the cause of the pain may be determined on the basis of, but are not limited to, the following:

(1) when treating a nonterminally ill patient for intractable pain, an evaluation conducted by the attending physician, advanced practice registered nurse, or physician assistant and one or more physicians, advanced practice registered nurses, or physician assistants specializing in pain medicine or the treatment of the area, system, or organ of the body confirmed or perceived as the source of the intractable pain; or

(2) when treating a terminally ill patient, an evaluation conducted by the attending physician, advanced practice registered nurse, or physician assistant who does so in accordance with the standard of care and the level of care, skill, and treatment that would be recognized by a reasonably prudent physician, advanced practice registered nurse, or physician assistant under similar conditions and circumstances.

(d) "Palliative care" has the meaning given in section 144A.75, subdivision 12.

(e) "Rare disease" means a disease, disorder, or condition that affects fewer than 200,000 individuals in the United States and is chronic, serious, life altering, or life threatening.

Subd. 1a. **Criteria for the evaluation and treatment of intractable pain.** The evaluation and treatment of intractable pain when treating a nonterminally ill patient is governed by the following criteria:

(1) a diagnosis of intractable pain by the treating physician, advanced practice registered nurse, or physician assistant and either by a physician, advanced practice registered nurse, or physician assistant specializing in pain medicine or a physician, advanced practice registered nurse, or physician assistant treating the area, system, or organ of the body that is the source of the pain is sufficient to meet the definition of intractable pain; and

(2) the cause of the diagnosis of intractable pain must not interfere with medically necessary treatment, including but not limited to prescribing or administering a controlled substance in Schedules II to V of section 152.02.

Subd. 2. **Prescription and administration of controlled substances for intractable pain.** (a) Notwithstanding any other provision of this chapter, a physician, advanced practice registered nurse, or physician assistant may prescribe or administer a controlled substance in Schedules II to V of section 152.02 to a patient in the course of the physician's, advanced practice registered nurse's, or physician assistant's treatment of the patient for a diagnosed condition causing intractable pain. No physician, advanced practice registered nurse, or physician assistant shall be subject to disciplinary action by the Board of Medical Practice or Board of Nursing for appropriately prescribing or administering a controlled substance in Schedules II to V of section 152.02 in the course of treatment of a patient for intractable pain, provided the physician, advanced practice registered nurse, or physician assistant:

(1) keeps accurate records of the purpose, use, prescription, and disposal of controlled substances, writes accurate prescriptions, and prescribes medications in conformance with chapter 147 or 148 or in accordance with the current standard of care; and

(2) enters into a patient-provider agreement that meets the criteria in subdivision 5.

(b) No physician, advanced practice registered nurse, or physician assistant, acting in good faith and based on the needs of the patient, shall be subject to disenrollment or termination by the commissioner of health solely for prescribing a dosage that equates to an upward deviation from morphine milligram equivalent dosage recommendations or thresholds specified in state or federal opioid prescribing guidelines or policies, including but not limited to the Guideline for Prescribing Opioids for Chronic Pain issued by the Centers for Disease Control and Prevention and Minnesota opioid prescribing guidelines.

(c) A physician, advanced practice registered nurse, or physician assistant treating intractable pain by prescribing, dispensing, or administering a controlled substance in Schedules II to V of section 152.02 that includes but is not limited to opioid analgesics must not taper a patient's medication dosage solely to meet a predetermined morphine milligram equivalent dosage recommendation or threshold if the patient is stable and compliant with the treatment plan, is experiencing no serious harm from the level of medication currently being prescribed or previously prescribed, and is in compliance with the patient-provider agreement as described in subdivision 5.

(d) A physician's, advanced practice registered nurse's, or physician assistant's decision to taper a patient's medication dosage must be based on factors other than a morphine milligram equivalent recommendation or threshold.

(e) No pharmacist, health plan company, or pharmacy benefit manager shall refuse to fill a prescription for an opiate issued by a licensed practitioner with the authority to prescribe opiates solely based on the prescription exceeding a predetermined morphine milligram equivalent dosage recommendation or threshold. Health plan companies that participate in Minnesota health care programs under chapters 256B and 256L, and pharmacy benefit managers under contract with these health plan companies, must comply with section 1004 of the federal SUPPORT Act, Public Law 115-271, when providing services to medical assistance and MinnesotaCare enrollees.

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

(1) a physician's, advanced practice registered nurse's, or physician assistant's treatment of a patient for substance use disorder resulting from the use of controlled substances in Schedules II to V of section 152.02;

(2) the prescription or administration of controlled substances in Schedules II to V of section 152.02 to a patient whom the physician, advanced practice registered nurse, or physician assistant knows to be using the controlled substances for nontherapeutic or drug diversion purposes;

(3) the prescription or administration of controlled substances in Schedules II to V of section 152.02 for the purpose of terminating the life of a patient having intractable pain; or

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

Subd. 4. **Notice of risks.** Prior to treating a patient for intractable pain in accordance with subdivision 2, a physician, advanced practice registered nurse, or physician assistant shall discuss with the patient or the patient's legal guardian, if applicable, the risks associated with the controlled substances in Schedules II to V of section 152.02 to be prescribed or administered in the course of the physician's, advanced practice registered nurse's, or physician assistant's treatment of a patient, and document the discussion in the patient's record as required in the patient-provider agreement described in subdivision 5.

Subd. 5. **Patient-provider agreement.** (a) Before treating a patient for intractable pain, a physician, advanced practice registered nurse, or physician assistant and the patient or the patient's legal guardian, if applicable, must mutually agree to the treatment and enter into a provider-patient agreement. The agreement must include a description of the prescriber's and the patient's expectations, responsibilities, and rights according to best practices and current standards of care.

(b) The agreement must be signed by the patient or the patient's legal guardian, if applicable, and the physician, advanced practice registered nurse, or physician assistant and included in the patient's medical records. A copy of the signed agreement must be provided to the patient.

(c) The agreement must be reviewed by the patient and the physician, advanced practice registered nurse, or physician assistant annually. If there is a change in the patient's treatment plan, the agreement must be updated and a revised agreement must be signed by the patient or the patient's legal guardian. A copy of the revised agreement must be included in the patient's medical record and a copy must be provided to the patient.

(d) Absent clear evidence of drug diversion, nonadherence with the agreement must not be used as the sole reason to stop a patient's treatment with scheduled drugs. If a patient experiences difficulty adhering to the agreement, the prescriber must evaluate the patient for other conditions, including but not limited to substance use disorder, and must ensure that the patient's course of treatment is appropriately adjusted to reflect any change in diagnosis.

(e) A patient-provider agreement is not required in an emergency or inpatient hospital setting.

**History:** *1997 c 124 s 1; 2022 c 98 art 2 s 2; art 4 s 51*

**152.126 PRESCRIPTION MONITORING PROGRAM.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Board" means the Minnesota State Board of Pharmacy established under chapter 151.

(c) "Controlled substances" means those substances listed in section 152.02, subdivisions 3 to 6, and those substances defined by the board pursuant to section 152.02, subdivisions 7, 8, and 12. For the purposes of this section, controlled substances includes butalbital and gabapentin.

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

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

(f) "Prescriber" means a licensed health care professional who is authorized to prescribe a controlled substance under section 152.12, subdivision 1 or 2.

(g) "Prescription" has the meaning given in section 151.01, subdivision 16a.

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

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

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

Subd. 3. **Prescription Monitoring Program Advisory Task Force.** (a) The board shall appoint an advisory task force consisting of at least one representative of:

(1) the Department of Health;

(2) the Department of Human Services;

(3) each health-related licensing board that licenses prescribers;

(4) a professional medical association, which may include an association of pain management and substance use disorder specialists;

(5) a professional pharmacy association;

(6) a professional nursing association;

(7) a professional dental association;

(8) a consumer privacy or security advocate;

(9) a consumer or patient rights organization; and

(10) an association of medical examiners and coroners.

(b) The advisory task force shall advise the board on the development and operation of the prescription monitoring program, including, but not limited to:

(1) technical standards for electronic prescription drug reporting;

(2) proper analysis and interpretation of prescription monitoring data;

(3) an evaluation process for the program; and

(4) criteria for the unsolicited provision of prescription monitoring data by the board to prescribers and dispensers.

(c) The task force is governed by section 15.059. Notwithstanding any other provisions of law to the contrary, the task force shall not expire.

Subd. 4. **Reporting requirements; notice.** (a) Each dispenser must submit the following data to the board or its designated vendor:

(1) name of the prescriber;

(2) national provider identifier of the prescriber;

(3) name of the dispenser;

(4) national provider identifier of the dispenser;

(5) prescription number;

(6) name of the patient for whom the prescription was written;

(7) address of the patient for whom the prescription was written;

(8) date of birth of the patient for whom the prescription was written;

(9) date the prescription was written;

(10) date the prescription was filled;

(11) name and strength of the controlled substance;

(12) quantity of controlled substance prescribed;

(13) quantity of controlled substance dispensed; and

(14) number of days supply.

(b) The dispenser must submit the required information by a procedure and in a format established by the board. The board may allow dispensers to omit data listed in this subdivision or may require the submission of data not listed in this subdivision provided the omission or submission is necessary for the purpose of complying with the electronic reporting or data transmission standards of the American Society for Automation in Pharmacy, the National Council on Prescription Drug Programs, or other relevant national standard-setting body.

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

(1) individuals residing in a health care facility as defined in section 151.58, subdivision 2, paragraph (b), when a drug is distributed through the use of an automated drug distribution system according to section 151.58; and

(2) individuals receiving a drug sample that was packaged by a manufacturer and provided to the dispenser for dispensing as a professional sample pursuant to Code of Federal Regulations, title 21, part 203, subpart D.

(d) A dispenser must provide to the patient for whom the prescription was written a conspicuous notice of the reporting requirements of this section and notice that the information may be used for program administration purposes.

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

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

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

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

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

(d) Data reported under subdivision 4 shall be made available to permissible users for a 12-month period beginning the day the data was received and ending 12 months from the last day of the month in which the data was received, except that permissible users defined in subdivision 6, paragraph (b), clauses (6) and (7), may use all data collected under this section for the purposes of administering, operating, and maintaining the prescription monitoring program and conducting trend analyses and other studies necessary to evaluate the effectiveness of the program.

(e) Data reported during the period January 1, 2015, through December 31, 2018, may be retained through December 31, 2019, in an identifiable manner. Effective January 1, 2020, data older than 24 months

must be destroyed. Data reported on or after January 1, 2020, must be destroyed no later than 12 months from the date the data was received.

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

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

(1) a prescriber or an agent or employee of the prescriber to whom the prescriber has delegated the task of accessing the data, to the extent the information relates specifically to a current patient, to whom the prescriber is:

(i) prescribing or considering prescribing any controlled substance;

(ii) providing emergency medical treatment for which access to the data may be necessary;

(iii) providing care, and the prescriber has reason to believe, based on clinically valid indications, that the patient is potentially abusing a controlled substance; or

(iv) providing other medical treatment for which access to the data may be necessary for a clinically valid purpose and the patient has consented to access to the submitted data, and with the provision that the prescriber remains responsible for the use or misuse of data accessed by a delegated agent or employee;

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

(3) a licensed pharmacist who is providing pharmaceutical care for which access to the data may be necessary to the extent that the information relates specifically to a current patient for whom the pharmacist is providing pharmaceutical care: (i) if the patient has consented to access to the submitted data; or (ii) if the pharmacist is consulted by a prescriber who is requesting data in accordance with clause (1);

(4) an individual who is the recipient of a controlled substance prescription for which data was submitted under subdivision 4, or a guardian of the individual, parent or guardian of a minor, or health care agent of the individual acting under a health care directive under chapter 145C. For purposes of this clause, access by individuals includes persons in the definition of an individual under section 13.02;

(5) personnel or designees of a health-related licensing board listed in section 214.01, subdivision 2, or of the Emergency Medical Services Regulatory Board, assigned to conduct a bona fide investigation of a complaint received by that board that alleges that a specific licensee is impaired by use of a drug for which data is collected under subdivision 4, has engaged in activity that would constitute a crime as defined in section 152.025, or has engaged in the behavior specified in subdivision 5, paragraph (a);

(6) personnel of the board engaged in the collection, review, and analysis of controlled substance prescription information as part of the assigned duties and responsibilities under this section;

(7) authorized personnel of a vendor under contract with the state of Minnesota who are engaged in the design, implementation, operation, and maintenance of the prescription monitoring program as part of the

assigned duties and responsibilities of their employment, provided that access to data is limited to the minimum amount necessary to carry out such duties and responsibilities, and subject to the requirement of de-identification and time limit on retention of data specified in subdivision 5, paragraphs (d) and (e);

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

(9) personnel of the Minnesota health care programs assigned to use the data collected under this section to identify and manage recipients whose usage of controlled substances may warrant restriction to a single primary care provider, a single outpatient pharmacy, and a single hospital;

(10) personnel of the Department of Human Services assigned to access the data pursuant to paragraph (k);

(11) personnel of the health professionals services program established under section 214.31, to the extent that the information relates specifically to an individual who is currently enrolled in and being monitored by the program, and the individual consents to access to that information. The health professionals services program personnel shall not provide this data to a health-related licensing board or the Emergency Medical Services Regulatory Board, except as permitted under section 214.33, subdivision 3; and

(12) personnel or designees of a health-related licensing board listed in section 214.01, subdivision 2, assigned to conduct a bona fide investigation of a complaint received by that board that alleges that a specific licensee is inappropriately prescribing controlled substances as defined in this section.

(c) By July 1, 2017, every prescriber licensed by a health-related licensing board listed in section 214.01, subdivision 2, practicing within this state who is authorized to prescribe controlled substances for humans and who holds a current registration issued by the federal Drug Enforcement Administration, and every pharmacist licensed by the board and practicing within the state, shall register and maintain a user account with the prescription monitoring program. Data submitted by a prescriber, pharmacist, or their delegate during the registration application process, other than their name, license number, and license type, is classified as private pursuant to section 13.02, subdivision 12.

(d) Notwithstanding paragraph (b), beginning January 1, 2021, a prescriber or an agent or employee of the prescriber to whom the prescriber has delegated the task of accessing the data, must access the data submitted under subdivision 4 to the extent the information relates specifically to the patient:

(1) before the prescriber issues an initial prescription order for a Schedules II through IV opiate controlled substance to the patient; and

(2) at least once every three months for patients receiving an opiate for treatment of chronic pain or participating in medically assisted treatment for an opioid addiction.

(e) Paragraph (d) does not apply if:

(1) the patient is receiving palliative care, or hospice or other end-of-life care;

(2) the patient is being treated for pain due to cancer or the treatment of cancer;

(3) the prescription order is for a number of doses that is intended to last the patient five days or less and is not subject to a refill;

(4) the prescriber and patient have a current or ongoing provider/patient relationship of a duration longer than one year;

(5) the prescription order is issued within 14 days following surgery or three days following oral surgery or follows the prescribing protocols established under the opioid prescribing improvement program under section 256B.0638;

(6) the controlled substance is prescribed or administered to a patient who is admitted to an inpatient hospital;

(7) the controlled substance is lawfully administered by injection, ingestion, or any other means to the patient by the prescriber, a pharmacist, or by the patient at the direction of a prescriber and in the presence of the prescriber or pharmacist;

(8) due to a medical emergency, it is not possible for the prescriber to review the data before the prescriber issues the prescription order for the patient; or

(9) the prescriber is unable to access the data due to operational or other technological failure of the program so long as the prescriber reports the failure to the board.

(f) Only permissible users identified in paragraph (b), clauses (1), (2), (3), (6), (7), (9), and (10), may directly access the data electronically. No other permissible users may directly access the data electronically. If the data is directly accessed electronically, the permissible user shall implement and maintain a comprehensive information security program that contains administrative, technical, and physical safeguards that are appropriate to the user's size and complexity, and the sensitivity of the personal information obtained. The permissible user shall identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of personal information that could result in the unauthorized disclosure, misuse, or other compromise of the information and assess the sufficiency of any safeguards in place to control the risks.

(g) The board shall not release data submitted under subdivision 4 unless it is provided with evidence, satisfactory to the board, that the person requesting the information is entitled to receive the data.

(h) The board shall maintain a log of all persons who access the data for a period of at least three years and shall ensure that any permissible user complies with paragraph (c) prior to attaining direct access to the data.

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

(j) The board may participate in an interstate prescription monitoring program data exchange system provided that permissible users in other states have access to the data only as allowed under this section, and that section 13.05, subdivision 6, applies to any contract or memorandum of understanding that the board enters into under this paragraph.

(k) With available appropriations, the commissioner of human services shall establish and implement a system through which the Department of Human Services shall routinely access the data for the purpose of determining whether any client enrolled in an opioid treatment program licensed according to chapter 245A has been prescribed or dispensed a controlled substance in addition to that administered or dispensed by the opioid treatment program. When the commissioner determines there have been multiple prescribers or multiple prescriptions of controlled substances, the commissioner shall:

(1) inform the medical director of the opioid treatment program only that the commissioner determined the existence of multiple prescribers or multiple prescriptions of controlled substances; and

(2) direct the medical director of the opioid treatment program to access the data directly, review the effect of the multiple prescribers or multiple prescriptions, and document the review.

If determined necessary, the commissioner of human services shall seek a federal waiver of, or exception to, any applicable provision of Code of Federal Regulations, title 42, section 2.34, paragraph (c), prior to implementing this paragraph.

(l) The board shall review the data submitted under subdivision 4 on at least a quarterly basis and shall establish criteria, in consultation with the advisory task force, for referring information about a patient to prescribers and dispensers who prescribed or dispensed the prescriptions in question if the criteria are met.

(m) The board shall conduct random audits, on at least a quarterly basis, of electronic access by permissible users, as identified in paragraph (b), clauses (1), (2), (3), (6), (7), (9), and (10), to the data in subdivision 4, to ensure compliance with permissible use as defined in this section. A permissible user whose account has been selected for a random audit shall respond to an inquiry by the board, no later than 30 days after receipt of notice that an audit is being conducted. Failure to respond may result in deactivation of access to the electronic system and referral to the appropriate health licensing board, or the commissioner of human services, for further action. The board shall report the results of random audits to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance and government data practices.

(n) A permissible user who has delegated the task of accessing the data in subdivision 4 to an agent or employee shall audit the use of the electronic system by delegated agents or employees on at least a quarterly basis to ensure compliance with permissible use as defined in this section. When a delegated agent or employee has been identified as inappropriately accessing data, the permissible user must immediately remove access for that individual and notify the board within seven days. The board shall notify all permissible users associated with the delegated agent or employee of the alleged violation.

(o) A permissible user who delegates access to the data submitted under subdivision 4 to an agent or employee shall terminate that individual's access to the data within three business days of the agent or employee leaving employment with the permissible user. The board may conduct random audits to determine compliance with this requirement.

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

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

(c) A prescriber or dispenser authorized to access the data who fails to comply with subdivision 6, paragraph (l) or (m), shall be subject to disciplinary action by the appropriate health-related licensing board.

Subd. 8. [Repealed by amendment, 2014 c 291 art 2 s 3]

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

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

Subd. 10. **Funding.** (a) The board may seek grants and private funds from nonprofit charitable foundations, the federal government, and other sources to fund the enhancement and ongoing operations of the prescription monitoring program established under this section. Any funds received shall be appropriated to the board for this purpose. The board may not expend funds to enhance the program in a way that conflicts with this section without seeking approval from the legislature.

(b) Notwithstanding any other section, the administrative services unit for the health-related licensing boards shall apportion between the Board of Medical Practice, the Board of Nursing, the Board of Dentistry, the Board of Podiatric Medicine, the Board of Optometry, the Board of Veterinary Medicine, and the Board of Pharmacy an amount to be paid through fees by each respective board. The amount apportioned to each board shall equal each board's share of the annual appropriation to the Board of Pharmacy from the state government special revenue fund for operating the prescription monitoring program under this section. Each board's apportioned share shall be based on the number of prescribers or dispensers that each board identified in this paragraph licenses as a percentage of the total number of prescribers and dispensers licensed collectively by these boards. Each respective board may adjust the fees that the boards are required to collect to compensate for the amount apportioned to each board by the administrative services unit.

Subd. 11. **Patient information on record access.** A patient who has been prescribed a controlled substance may access the prescription monitoring program database in order to obtain information on access by permissible users to the patient's data record, including the name and organizational affiliation of the permissible user and the date of access. In order to obtain this information, the patient must complete, notarize, and submit a request form developed by the board. The board shall make this form available to the public on the board's website.

**History:** *2007 c 147 art 11 s 7; 2008 c 321 s 7; 2009 c 79 art 11 s 9-11; 1Sp2010 c 1 art 19 s 3; 2013 c 113 art 3 s 3; 2014 c 275 art 1 s 32; 2014 c 286 art 7 s 4,13; art 8 s 39; 2014 c 291 art 2 s 3; 2016 c 185 s 1-5; 2019 c 63 art 2 s 9; 1Sp2019 c 9 art 10 s 49-51; 2020 c 83 art 1 s 44; 2022 c 98 art 4 s 51*

## 152.13 DUTIES OF STATE BOARD OF PHARMACY.

It shall be the duty of the state board to enforce the provisions of this chapter, and the power and authority of the board, as now defined by the laws of this state, are hereby extended so as to be commensurate with the duties hereby imposed.

**History:** *(3899-10) 1921 c 190 s 10; 1967 c 408 s 9*

## 152.135 RESTRICTIONS ON SALES, MARKETING, AND POSSESSION OF EPHEDRINE.

Subdivision 1. **Prescription status for ephedrine.** Except as provided in this section, a material, compound, mixture, or preparation that contains any quantity of ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine, may be dispensed only upon the prescription of a duly licensed practitioner authorized by the laws of the state to prescribe prescription drugs.

Subd. 2. **Exceptions.** (a) A drug product containing ephedrine, its salts, optical isomers, and salts of optical isomers is exempt from subdivision 1 if the drug product:

(1) may be lawfully sold over the counter without a prescription under the Federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 321, et seq.;

(2) is labeled and marketed in a manner consistent with the pertinent OTC Tentative Final or Final Monograph;

(3) is manufactured and distributed for legitimate medicinal use in a manner that reduces or eliminates the likelihood of abuse;

(4) is not marketed, advertised, or labeled for the indication of stimulation, mental alertness, weight loss, muscle enhancement, appetite control, or energy;

(5) is in solid oral dosage forms, including soft gelatin caplets, that combine 400 milligrams of guaifenesin and 25 milligrams of ephedrine per dose, according to label instructions; or is an anorectal preparation containing not more than five percent ephedrine; and

(6) is sold in a manner that does not conflict with section 152.02, subdivision 6.

(b) Subdivisions 1 and 3 shall not apply to products containing ephedra or ma huang and lawfully marketed as dietary supplements under federal law.

Subd. 3. **Mismarketing of ephedrine prohibited.** The marketing, advertising, or labeling of a product containing ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine for the indication of stimulation, mental alertness, weight loss, appetite control, or energy, is prohibited. In determining compliance with this subdivision, the following factors may be considered:

(1) the packaging of the drug product;

(2) the name and labeling of the product;

(3) the manner of distribution, advertising, and promotion of the product;

(4) verbal representations made concerning the product; and

(5) the duration, scope, and significance of abuse or misuse of the product.

Subd. 4. [Repealed, 1Sp2003 c 2 art 8 s 19]

Subd. 5. **Sales for illicit purposes prohibited.** It is unlawful for a person to sell, distribute, or otherwise make available a product containing ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, or salts of optical isomers if the person knows or reasonably should know that the product will be used as a precursor to an illegal substance.

Subd. 6. **Penalty.** A person who violates this section is guilty of a misdemeanor.

**History:** *1998 c 367 art 4 s 6; 2005 c 136 art 7 s 10*

## ANHYDROUS AMMONIA

### 152.136 ANHYDROUS AMMONIA; PROHIBITED CONDUCT; CRIMINAL PENALTIES; CIVIL LIABILITY.

Subdivision 1. **Definitions.** As used in this section, "tamper" means action taken by a person not authorized to take that action by law or by the owner or authorized custodian of an anhydrous ammonia container or of equipment where anhydrous ammonia is used, stored, distributed, or transported.

Subd. 2. **Prohibited conduct.** (a) A person may not:

(1) steal or unlawfully take or carry away any amount of anhydrous ammonia;

(2) purchase, possess, transfer, or distribute any amount of anhydrous ammonia, knowing, or having reason to know, that it will be used to unlawfully manufacture a controlled substance;

(3) place, have placed, or possess anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to contain or transport anhydrous ammonia;

(4) transport anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to transport anhydrous ammonia;

(5) use, deliver, receive, sell, or transport a container designed and constructed to contain anhydrous ammonia without the express consent of the owner or authorized custodian of the container; or

(6) tamper with any equipment or facility used to contain, store, or transport anhydrous ammonia.

(b) For the purposes of this subdivision, containers designed and constructed for the storage and transport of anhydrous ammonia are described in rules adopted under section 18C.121, subdivision 1, or in Code of Federal Regulations, title 49.

Subd. 3. **No cause of action.** (a) Except as provided in paragraph (b), a person tampering with anhydrous ammonia containers or equipment under subdivision 2 shall have no cause of action for damages arising out of the tampering against:

(1) the owner or lawful custodian of the container or equipment;

(2) a person responsible for the installation or maintenance of the container or equipment; or

(3) a person lawfully selling or offering for sale the anhydrous ammonia.

(b) Paragraph (a) does not apply to a cause of action against a person who unlawfully obtained the anhydrous ammonia or anhydrous ammonia container or who possesses the anhydrous ammonia or anhydrous ammonia container for any unlawful purpose.

Subd. 4. **Criminal penalty.** A person who knowingly violates subdivision 2 is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $50,000, or both.

**History:** *2005 c 136 art 7 s 11*

## METHAMPHETAMINE-RELATED CRIMES; CHILDREN AND VULNERABLE ADULTS

### 152.137 METHAMPHETAMINE-RELATED CRIMES INVOLVING CHILDREN AND VULNERABLE ADULTS.

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

(b) "Chemical substance" means a substance intended to be used as a precursor in the manufacture of methamphetamine or any other chemical intended to be used in the manufacture of methamphetamine.

(c) "Child" means any person under the age of 18 years.

(d) "Methamphetamine paraphernalia" means all equipment, products, and materials of any kind that are used, intended for use, or designed for use in manufacturing, injecting, ingesting, inhaling, or otherwise introducing methamphetamine into the human body.

(e) "Methamphetamine waste products" means substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine.

(f) "Vulnerable adult" has the meaning given in section 609.232, subdivision 11.

Subd. 2. **Prohibited conduct.** (a) No person may knowingly engage in any of the following activities in the presence of a child or vulnerable adult; in the residence of a child or a vulnerable adult; in a building, structure, conveyance, or outdoor location where a child or vulnerable adult might reasonably be expected to be present; in a room offered to the public for overnight accommodation; or in any multiple unit residential building:

(1) manufacturing or attempting to manufacture methamphetamine;

(2) storing any chemical substance;

(3) storing any methamphetamine waste products; or

(4) storing any methamphetamine paraphernalia.

(b) No person may knowingly cause or permit a child or vulnerable adult to inhale, be exposed to, have contact with, or ingest methamphetamine, a chemical substance, or methamphetamine paraphernalia.

Subd. 3. **Criminal penalty.** A person who violates subdivision 2 is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 4. **Multiple sentences.** Notwithstanding sections 609.035 and 609.04, a prosecution for or conviction under this section is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 5. **Protective custody.** A peace officer may take any child present in an area where any of the activities described in subdivision 2, paragraph (a), clauses (1) to (4), are taking place into protective custody in accordance with section 260C.175, subdivision 1, clause (2), item (ii). A child taken into protective custody under this subdivision shall be provided health screening to assess potential health concerns related to methamphetamine as provided in section 260C.188. A child not taken into protective custody under this

subdivision but who is known to have been exposed to methamphetamine shall be offered health screening for potential health concerns related to methamphetamine as provided in section 260C.188.

Subd. 6. **Reporting maltreatment of vulnerable adult.** (a) A peace officer shall make a report of suspected maltreatment of a vulnerable adult if the vulnerable adult is present in an area where any of the activities described in subdivision 2, paragraph (a), clauses (1) to (4), are taking place, and the peace officer has reason to believe the vulnerable adult inhaled, was exposed to, had contact with, or ingested methamphetamine, a chemical substance, or methamphetamine paraphernalia. The peace officer shall immediately report to the county common entry point as described in section 626.557, subdivision 9b.

(b) As required in section 626.557, subdivision 9b, law enforcement is the primary agency to conduct investigations of any incident when there is reason to believe a crime has been committed. Law enforcement shall initiate a response immediately. If the common entry point notified a county agency for adult protective services, law enforcement shall cooperate with that county agency when both agencies are involved and shall exchange data to the extent authorized in section 626.557, subdivision 12b, paragraph (g). County adult protection shall initiate a response immediately.

(c) The county social services agency shall immediately respond as required in section 626.557, subdivision 10, upon receipt of a report from the common entry point staff.

**History:** *2005 c 136 art 7 s 12*

**152.14** [Repealed, 1969 c 933 s 22]

**152.15** Subdivision 1. [Repealed, 1969 c 933 s 22]

Subdivision 1. [Repealed, 1989 c 290 art 3 s 37]

Subd. 2. [Repealed, 1989 c 290 art 3 s 37]

Subd. 2a. [Repealed, 1989 c 290 art 3 s 37]

Subd. 2b. [Repealed, 1989 c 290 art 3 s 37]

Subd. 3. [Repealed, 1989 c 290 art 3 s 37]

Subd. 4. [Repealed, 1987 c 330 s 4]

Subd. 4a. [Repealed, 1989 c 290 art 3 s 37]

Subd. 5. [Repealed, 1989 c 290 art 3 s 37]

**152.151** [Repealed, 1996 c 310 s 1]

## STAY; DISMISSAL; EXPUNGEMENT; OTHER LAW

### 152.152 STAYED SENTENCE LIMITED.

If a person is convicted under section 152.021, 152.022, 152.023, or 152.0262, and the Sentencing Guidelines grid calls for a presumptive prison sentence for the offense, the court may stay imposition or execution of the sentence only as provided in this section. The sentence may be stayed based on amenability to probation only if the offender presents adequate evidence to the court that the offender has been accepted by, and can respond to, a treatment program that has been approved by the commissioner of human services.

The court may impose a sentence that is a mitigated dispositional departure on any other ground only if the court includes as a condition of probation incarceration in a local jail or workhouse.

**History:** *1989 c 290 art 3 s 20; 2005 c 136 art 7 s 21*

**152.16** [Repealed, 1967 c 408 s 11]

**152.17** [Repealed, 1971 c 937 s 22]

**152.18 DISCHARGE AND DISMISSAL.**

Subdivision 1. **Deferring prosecution for certain first time drug offenders.** (a) A court may defer prosecution as provided in paragraph (c) for any person found guilty, after trial or upon a plea of guilty, of a violation of section 152.023, subdivision 2, 152.024, subdivision 2, 152.025, subdivision 2, or 152.027, subdivision 2, 3, 4, or 6, paragraph (d), for possession of a controlled substance, who:

(1) has not previously participated in or completed a diversion program authorized under section 401.065;

(2) has not previously been placed on probation without a judgment of guilty and thereafter been discharged from probation under this section; and

(3) has not been convicted of a felony violation of this chapter, including a felony-level attempt or conspiracy, or been convicted by the United States or another state of a similar offense that would have been a felony under this chapter if committed in Minnesota, unless ten years have elapsed since discharge from sentence.

(b) The court must defer prosecution as provided in paragraph (c) for any person found guilty of a violation of section 152.025, subdivision 2, who:

(1) meets the criteria listed in paragraph (a), clauses (1) to (3); and

(2) has not previously been convicted of a felony offense under any state or federal law or of a gross misdemeanor under section 152.025.

(c) In granting relief under this section, the court shall, without entering a judgment of guilty and with the consent of the person, defer further proceedings and place the person on probation upon such reasonable conditions as it may require and for a period, not to exceed the maximum sentence provided for the violation. The court may give the person the opportunity to attend and participate in an appropriate program of education regarding the nature and effects of alcohol and drug abuse as a stipulation of probation. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against the person and discharge the person from probation before the expiration of the maximum period prescribed for the person's probation. If during the period of probation the person does not violate any of the conditions of the probation, then upon expiration of the period the court shall discharge the person and dismiss the proceedings against that person. Discharge and dismissal under this subdivision shall be without court adjudication of guilt, but a not public record of it shall be retained by the Bureau of Criminal Apprehension for the purpose of use by the courts in determining the merits of subsequent proceedings against the person. The not public record may also be opened only upon court order for purposes of a criminal investigation, prosecution, or sentencing. Upon request by law enforcement, prosecution, or corrections authorities, the bureau shall notify the requesting party of the existence of the not public record and the right to seek a court order to open it pursuant to this section. The court shall forward a record of any discharge and dismissal under this subdivision to the bureau which shall make and maintain the not public record of it as provided under this subdivision. The discharge or dismissal

shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or for any other purpose.

For purposes of this subdivision, "not public" has the meaning given in section 13.02, subdivision 8a.

Subd. 2. [Repealed, 1996 c 408 art 9 s 10]

Subd. 3. **Expungement of certain marijuana offenses.** Any person who has been found guilty of a violation of section 152.09 with respect to a small amount of marijuana which violation occurred prior to April 11, 1976, and whose conviction would have been a petty misdemeanor under the provisions of section 152.15, subdivision 2, clause (5) in effect on April 11, 1978, but whose conviction was for an offense more serious than a petty misdemeanor under laws in effect prior to April 11, 1976, may petition the court in which the person was convicted to expunge from all official records, other than the nonpublic record retained by the Department of Public Safety pursuant to section 152.15, subdivision 2, clause (5), all recordation relating to the person's arrest, indictment or information, trial and conviction of an offense more serious than a petty misdemeanor. The court, upon being satisfied that a small amount was involved in the conviction, shall order all the recordation expunged. No person as to whom an order has been entered pursuant to this subdivision shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of the person's failure to recite or acknowledge conviction of an offense greater than a petty misdemeanor, unless possession of marijuana is material to a proceeding.

**History:** *1971 c 937 s 18; 1973 c 693 s 14; 1978 c 639 s 1; 1986 c 444; 1989 c 290 art 3 s 21; 1992 c 569 s 13; 1993 c 326 art 13 s 11; 1995 c 226 art 2 s 2; 1996 c 408 art 9 s 2; 2012 c 240 s 3; 2016 c 160 s 10*

**152.19** [Repealed, 1988 c 665 s 17]

### 152.20 PENALTIES UNDER OTHER LAWS.

Any penalty imposed for violation of this chapter is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

**History:** *1971 c 937 s 20; 1989 c 290 art 3 s 22*

### 152.205 LOCAL REGULATIONS.

Sections 152.01, subdivision 18, and 152.092 to 152.095 do not preempt enforcement or preclude adoption of municipal or county ordinances prohibiting or otherwise regulating the manufacture, delivery, possession, or advertisement of drug paraphernalia.

**History:** *1982 c 557 s 11; 1988 c 665 s 1*

## THERAPEUTIC RESEARCH ACT; MEDICAL CANNABIS

### 152.21 THC THERAPEUTIC RESEARCH ACT.

Subdivision 1. **Findings and purpose.** The legislature finds that scientific literature indicates promise for delta-9-tetrahydro-cannabinol (THC), the active component of marijuana, in alleviating certain side effects of cancer chemotherapy under strictly controlled medical circumstances.

The legislature also finds that further research and strictly controlled experimentation regarding the therapeutic use of THC is necessary and desirable. The intent of this section is to establish an extensive research program to investigate and report on the therapeutic effects of THC under strictly controlled

circumstances in compliance with all federal laws and regulations promulgated by the federal Food and Drug Administration, the National Institute on Drug Abuse and the Drug Enforcement Administration. The intent of the legislature is to allow this research program the greatest possible access to qualified cancer patients residing in Minnesota who meet protocol requirements. The establishment of this research program is not intended in any manner whatsoever to condone or promote the illicit recreational use of marijuana.

Subd. 2. **Definitions.** For purposes of this section, the following terms shall have the meanings given.

(a) "Commissioner" means the commissioner of health.

(b) "Marijuana" means marijuana as defined in section 152.01, subdivision 9, and delta-9-tetrahydro-cannabinol (THC), tetrahydrocannabinols or a chemical derivative of tetrahydrocannabinols, and all species of the genus Cannabis.

(c) "Principal investigator" means the individual responsible for the medical and scientific aspects of the research, development of protocol, and contacting and qualifying the clinical investigators in the state.

(d) "Clinical investigators" means those individuals who conduct the clinical trials.

(e) "Sponsor" means that individual or organization who, acting on behalf of the state, has the total responsibility for the state program.

Subd. 3. **Research grant.** The commissioner of health shall grant funds to the principal investigator selected by the commissioner pursuant to subdivision 4 for the purpose of conducting a research program under a protocol approved by the FDA regarding the therapeutic use of oral THC and other dosage forms, if available, according to the guidelines and requirements of the federal Food and Drug Administration, the Drug Enforcement Administration and the National Institute on Drug Abuse. The commissioner shall ensure that the research principal investigator complies with the requirements of subdivision 5. The commissioner may designate the principal investigator as the sponsor.

Subd. 4. **Principal investigator.** Within three months of April 25, 1980, the commissioner shall, in consultation with a representative chosen by the state Board of Pharmacy and a representative chosen by the state Board of Medical Examiners, select a person or research organization to be the principal investigator of the research program.

Subd. 5. **Duties.** The principal investigator shall:

(1) apply to the Food and Drug Administration for a notice of "Claimed Investigational Exemption for a New Drug (IND)" pursuant to the Federal Food, Drug and Cosmetic Act, United States Code, title 21, section 301, et seq., and shall comply with all applicable laws and regulations of the federal Food and Drug Administration, the Drug Enforcement Administration, and the National Institute on Drug Abuse in establishing the program;

(2) notify every oncologist in the state of the program, explain the purposes and requirements of the program to them, provide on request each of them with a copy of the approved protocol which shall include summaries of current papers in medical journals reporting on research concerning the safety, efficacy and appropriate use of THC in alleviating the nausea and emetic effects of cancer chemotherapy, and provide on request each of them with a bibliography of other articles published in medical journals;

(3) allow each oncologist (clinical investigator) in the state who meets or agrees to meet all applicable federal requirements for investigational new drug research and who so requests to be included in the research program as a clinical investigator to conduct the clinical trials;

(4) provide explanatory information and assistance to each clinical investigator in understanding the nature of therapeutic use of THC within program requirements, including the informed consent document contained in the protocol, informing and counseling patients involved in the program regarding the appropriate use and the effects of therapeutic use of THC;

(5) apply to contract with the National Institute on Drug Abuse for receipt of dosage forms of THC, fully characterized as to contents and delivery to the human system, pursuant to regulations promulgated by the National Institute on Drug Abuse, and the federal Food and Drug Administration. The principal investigator shall ensure delivery of the THC dosages to clinical investigators as needed for participation in the program;

(6) conduct the research program in compliance with federal laws and regulations promulgated by the federal Food and Drug Administration, the Drug Enforcement Administration, the National Institute on Drug Abuse, and the purposes and provisions of this section;

(7) submit periodic reports as determined by the commissioner on the numbers of oncologists and patients involved in the program and the results of the program;

(8) submit reports on intermediate or final research results, as appropriate, to the major scientific journals in the United States; and

(9) otherwise comply with the provisions of this section.

Subd. 6. **Exemption from criminal sanctions.** For the purposes of this section, the following are not violations under this chapter:

(1) use or possession of THC, or both, by a patient in the research program;

(2) possession, prescribing use of, administering, or dispensing THC, or any combination of these actions, by the principal investigator or by any clinical investigator; and

(3) possession or distribution of THC, or both, by a pharmacy registered to handle Schedule I substances which stores THC on behalf of the principal investigator or a clinical investigator.

THC obtained and distributed pursuant to this section is not subject to forfeiture under sections 609.531 to 609.5316.

For the purposes of this section, THC is removed from Schedule I contained in section 152.02, subdivision 2, and inserted in Schedule II contained in section 152.02, subdivision 3.

Subd. 7. **Citation.** This section may be cited as the "THC Therapeutic Research Act."

**History:** *1980 c 614 s 93; 1988 c 665 s 2; 1989 c 290 art 3 s 23; 1997 c 7 art 2 s 22*

**152.22 DEFINITIONS.**

Subdivision 1. **Applicability.** For purposes of sections 152.22 to 152.37, the terms defined in this section have the meanings given them.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of health.

Subd. 3. **Disqualifying felony offense.** "Disqualifying felony offense" means a violation of a state or federal controlled substance law that is a felony under Minnesota law, or would be a felony if committed in

Minnesota, regardless of the sentence imposed, unless the commissioner determines that the person's conviction was for the medical use of cannabis or assisting with the medical use of cannabis.

Subd. 4. **Health care practitioner.** "Health care practitioner" means a Minnesota licensed doctor of medicine, a Minnesota licensed physician assistant, or a Minnesota licensed advanced practice registered nurse who has the primary responsibility for the care and treatment of the qualifying medical condition of a person diagnosed with a qualifying medical condition.

Subd. 5. **Health records.** "Health records" means health records as defined in section 144.291, subdivision 2, paragraph (c).

Subd. 5a. **Hemp.** "Hemp" has the meaning given to industrial hemp in section 18K.02, subdivision 3.

Subd. 5b. **Hemp grower.** "Hemp grower" means a person licensed by the commissioner of agriculture under chapter 18K to grow hemp for commercial purposes.

Subd. 5c. **Hemp processor.** "Hemp processor" means a person or business licensed by the commissioner of agriculture under chapter 18K to convert raw hemp into a product.

Subd. 6. **Medical cannabis.** (a) "Medical cannabis" means any species of the genus cannabis plant, or any mixture or preparation of them, including whole plant extracts and resins, and is delivered in the form of:

(1) liquid, including, but not limited to, oil;

(2) pill;

(3) vaporized delivery method with use of liquid or oil;

(4) combustion with use of dried raw cannabis; or

(5) any other method approved by the commissioner.

(b) This definition includes any part of the genus cannabis plant prior to being processed into a form allowed under paragraph (a), that is possessed by a person while that person is engaged in employment duties necessary to carry out a requirement under sections 152.22 to 152.37 for a registered manufacturer or a laboratory under contract with a registered manufacturer. This definition also includes any hemp acquired by a manufacturer by a hemp grower as permitted under section 152.29, subdivision 1, paragraph (b).

Subd. 7. **Medical cannabis manufacturer.** "Medical cannabis manufacturer" or "manufacturer" means an entity registered by the commissioner to cultivate, acquire, manufacture, possess, prepare, transfer, transport, supply, or dispense medical cannabis, delivery devices, or related supplies and educational materials.

Subd. 8. **Medical cannabis product.** "Medical cannabis product" means any delivery device or related supplies and educational materials used in the administration of medical cannabis for a patient with a qualifying medical condition enrolled in the registry program.

Subd. 9. **Patient.** "Patient" means a Minnesota resident who has been diagnosed with a qualifying medical condition by a health care practitioner and who has otherwise met any other requirements for patients under sections 152.22 to 152.37 to participate in the registry program under sections 152.22 to 152.37.

Subd. 10. **Patient registry number.** "Patient registry number" means a unique identification number assigned by the commissioner to a patient enrolled in the registry program.

Subd. 11. **Registered designated caregiver.** "Registered designated caregiver" means a person who:

(1) is at least 18 years old;

(2) does not have a conviction for a disqualifying felony offense;

(3) has been approved by the commissioner to assist a patient who requires assistance in administering medical cannabis or obtaining medical cannabis from a distribution facility; and

(4) is authorized by the commissioner to assist the patient with the use of medical cannabis.

Subd. 12. **Registry program.** "Registry program" means the patient registry established in sections 152.22 to 152.37.

Subd. 13. **Registry verification.** "Registry verification" means the verification provided by the commissioner that a patient is enrolled in the registry program and that includes the patient's name, registry number, and, if applicable, the name of the patient's registered designated caregiver or parent, legal guardian, or spouse.

Subd. 14. **Qualifying medical condition.** "Qualifying medical condition" means a diagnosis of any of the following conditions:

(1) cancer, if the underlying condition or treatment produces one or more of the following:

(i) severe or chronic pain;

(ii) nausea or severe vomiting; or

(iii) cachexia or severe wasting;

(2) glaucoma;

(3) human immunodeficiency virus or acquired immune deficiency syndrome;

(4) Tourette's syndrome;

(5) amyotrophic lateral sclerosis;

(6) seizures, including those characteristic of epilepsy;

(7) severe and persistent muscle spasms, including those characteristic of multiple sclerosis;

(8) inflammatory bowel disease, including Crohn's disease;

(9) terminal illness, with a probable life expectancy of under one year, if the illness or its treatment produces one or more of the following:

(i) severe or chronic pain;

(ii) nausea or severe vomiting; or

(iii) cachexia or severe wasting; or

(10) any other medical condition or its treatment approved by the commissioner.

**History:** *2014 c 311 s 2; 2015 c 74 s 2; 2016 c 179 s 27; 1Sp2019 c 9 art 11 s 78-82; 2021 c 30 art 3 s 28-30; 2022 c 58 s 92*

**152.23 LIMITATIONS.**

(a) Nothing in sections 152.22 to 152.37 permits any person to engage in and does not prevent the imposition of any civil, criminal, or other penalties for:

(1) undertaking any task under the influence of medical cannabis that would constitute negligence or professional malpractice;

(2) possessing or engaging in the use of medical cannabis:

(i) on a school bus or van;

(ii) on the grounds of any preschool or primary or secondary school;

(iii) in any correctional facility; or

(iv) on the grounds of any child care facility or home day care;

(3) vaporizing or combusting medical cannabis pursuant to section 152.22, subdivision 6:

(i) on any form of public transportation;

(ii) where the vapor would be inhaled by a nonpatient minor child or where the smoke would be inhaled by a minor child; or

(iii) in any public place, including any indoor or outdoor area used by or open to the general public or a place of employment as defined under section 144.413, subdivision 1b; and

(4) operating, navigating, or being in actual physical control of any motor vehicle, aircraft, train, or motorboat, or working on transportation property, equipment, or facilities while under the influence of medical cannabis.

(b) Nothing in sections 152.22 to 152.37 require the medical assistance and MinnesotaCare programs to reimburse an enrollee or a provider for costs associated with the medical use of cannabis. Medical assistance and MinnesotaCare shall continue to provide coverage for all services related to treatment of an enrollee's qualifying medical condition if the service is covered under chapter 256B or 256L.

**History:** *2014 c 311 s 3; 2021 c 30 art 3 s 31*

**152.24 FEDERALLY APPROVED CLINICAL TRIALS.**

The commissioner may prohibit enrollment of a patient in the registry program if the patient is simultaneously enrolled in a federally approved clinical trial for the treatment of a qualifying medical condition with medical cannabis. The commissioner shall provide information to all patients enrolled in the registry program on the existence of federally approved clinical trials for the treatment of the patient's qualifying medical condition with medical cannabis as an alternative to enrollment in the patient registry program.

**History:** *2014 c 311 s 4*

**152.25 COMMISSIONER DUTIES.**

Subdivision 1. **Medical cannabis manufacturer registration.** (a) The commissioner shall register two in-state manufacturers for the production of all medical cannabis within the state. A registration agreement between the commissioner and a manufacturer is nontransferable. The commissioner shall register new

manufacturers or reregister the existing manufacturers by December 1 every two years, using the factors described in this subdivision. The commissioner shall accept applications after December 1, 2014, if one of the manufacturers registered before December 1, 2014, ceases to be registered as a manufacturer. The commissioner's determination that no manufacturer exists to fulfill the duties under sections 152.22 to 152.37 is subject to judicial review in Ramsey County District Court. Data submitted during the application process are private data on individuals or nonpublic data as defined in section 13.02 until the manufacturer is registered under this section. Data on a manufacturer that is registered are public data, unless the data are trade secret or security information under section 13.37.

(b) As a condition for registration, a manufacturer must agree to:

(1) begin supplying medical cannabis to patients by July 1, 2015; and

(2) comply with all requirements under sections 152.22 to 152.37.

(c) The commissioner shall consider the following factors when determining which manufacturer to register:

(1) the technical expertise of the manufacturer in cultivating medical cannabis and converting the medical cannabis into an acceptable delivery method under section 152.22, subdivision 6;

(2) the qualifications of the manufacturer's employees;

(3) the long-term financial stability of the manufacturer;

(4) the ability to provide appropriate security measures on the premises of the manufacturer;

(5) whether the manufacturer has demonstrated an ability to meet the medical cannabis production needs required by sections 152.22 to 152.37; and

(6) the manufacturer's projection and ongoing assessment of fees on patients with a qualifying medical condition.

(d) If an officer, director, or controlling person of the manufacturer pleads or is found guilty of intentionally diverting medical cannabis to a person other than allowed by law under section 152.33, subdivision 1, the commissioner may decide not to renew the registration of the manufacturer, provided the violation occurred while the person was an officer, director, or controlling person of the manufacturer.

(e) The commissioner shall require each medical cannabis manufacturer to contract with an independent laboratory to test medical cannabis produced by the manufacturer. The commissioner shall approve the laboratory chosen by each manufacturer and require that the laboratory report testing results to the manufacturer in a manner determined by the commissioner.

Subd. 1a. **Revocation or nonrenewal of a medical cannabis manufacturer registration.** If the commissioner intends to revoke or not renew a registration issued under this section, the commissioner must first notify in writing the manufacturer against whom the action is to be taken and provide the manufacturer with an opportunity to request a hearing under the contested case provisions of chapter 14. If the manufacturer does not request a hearing by notifying the commissioner in writing within 20 days after receipt of the notice of proposed action, the commissioner may proceed with the action without a hearing. For revocations, the registration of a manufacturer is considered revoked on the date specified in the commissioner's written notice of revocation.

Subd. 1b. **Temporary suspension proceedings.** The commissioner may institute proceedings to temporarily suspend the registration of a medical cannabis manufacturer for a period of up to 90 days by notifying the manufacturer in writing if any action by an employee, agent, officer, director, or controlling person of the manufacturer:

(1) violates any of the requirements of sections 152.21 to 152.37 or the rules adopted thereunder;

(2) permits, aids, or abets the commission of any violation of state law at the manufacturer's location for cultivation, harvesting, manufacturing, packaging, and processing or at any site for distribution of medical cannabis;

(3) performs any act contrary to the welfare of a registered patient or registered designated caregiver; or

(4) obtains, or attempts to obtain, a registration by fraudulent means or misrepresentation.

Subd. 1c. **Notice to patients.** Upon the revocation or nonrenewal of a manufacturer's registration under subdivision 1a or implementation of an enforcement action under subdivision 1b that may affect the ability of a registered patient, registered designated caregiver, or a registered patient's parent, legal guardian, or spouse to obtain medical cannabis from the manufacturer subject to the enforcement action, the commissioner shall notify in writing each registered patient and the patient's registered designated caregiver or registered patient's parent, legal guardian, or spouse about the outcome of the proceeding and information regarding alternative registered manufacturers. This notice must be provided two or more business days prior to the effective date of the revocation, nonrenewal, or other enforcement action.

Subd. 2. **Range of compounds and dosages; report.** The commissioner shall review and publicly report the existing medical and scientific literature regarding the range of recommended dosages for each qualifying condition and the range of chemical compositions of any plant of the genus cannabis that will likely be medically beneficial for each of the qualifying medical conditions. The commissioner shall make this information available to patients with qualifying medical conditions beginning December 1, 2014, and update the information annually. The commissioner may consult with the independent laboratory under contract with the manufacturer or other experts in reporting the range of recommended dosages for each qualifying medical condition, the range of chemical compositions that will likely be medically beneficial, and any risks of noncannabis drug interactions. The commissioner shall consult with each manufacturer on an annual basis on medical cannabis offered by the manufacturer. The list of medical cannabis offered by a manufacturer shall be published on the Department of Health website.

Subd. 3. **Deadlines.** The commissioner shall adopt rules necessary for the manufacturer to begin distribution of medical cannabis to patients under the registry program by July 1, 2015, and have notice of proposed rules published in the State Register prior to January 1, 2015.

Subd. 4. **Reports.** (a) The commissioner shall provide regular updates to the task force on medical cannabis therapeutic research and to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services, public safety, judiciary, and civil law regarding: (1) any changes in federal law or regulatory restrictions regarding the use of medical cannabis or hemp; and (2) the market demand and supply in this state for products made from hemp that can be used for medicinal purposes.

(b) The commissioner may submit medical research based on the data collected under sections 152.22 to 152.37 to any federal agency with regulatory or enforcement authority over medical cannabis to demonstrate the effectiveness of medical cannabis for treating a qualifying medical condition.

**History:** *2014 c 311 s 5; 2015 c 74 s 3; 2016 c 179 s 28,29; 2017 c 40 art 1 s 41; 1Sp2017 c 6 art 10 s 122-125; 1Sp2019 c 9 art 11 s 83-86*

**152.26 RULEMAKING.**

(a) The commissioner may adopt rules to implement sections 152.22 to 152.37. Rules for which notice is published in the State Register before January 1, 2015, may be adopted using the process in section 14.389.

(b) The commissioner may adopt or amend rules, using the procedure in section 14.386, paragraph (a), to implement the addition of dried raw cannabis as an allowable form of medical cannabis under section 152.22, subdivision 6, paragraph (a), clause (4). Section 14.386, paragraph (b), does not apply to these rules.

**History:** *2014 c 311 s 6; 2021 c 30 art 3 s 32*

**152.261 RULES; ADVERSE INCIDENTS.**

(a) The commissioner of health shall adopt rules to establish requirements for reporting incidents when individuals who are not authorized to possess medical cannabis under sections 152.22 to 152.37 are found in possession of medical cannabis. The rules must identify professionals required to report, the information they are required to report, and actions the reporter must take to secure the medical cannabis.

(b) The commissioner of health shall adopt rules to establish requirements for law enforcement officials and health care professionals to report incidents involving an overdose of medical cannabis to the commissioner of health.

(c) Rules must include the method by which the commissioner will collect and tabulate reports of unauthorized possession and overdose.

**History:** *2014 c 311 s 19*

**152.27 PATIENT REGISTRY PROGRAM ESTABLISHED.**

Subdivision 1. **Patient registry program; establishment.** (a) The commissioner shall establish a patient registry program to evaluate data on patient demographics, effective treatment options, clinical outcomes, and quality-of-life outcomes for the purpose of reporting on the benefits, risks, and outcomes regarding patients with a qualifying medical condition engaged in the therapeutic use of medical cannabis.

(b) The establishment of the registry program shall not be construed or interpreted to condone or promote the illicit recreational use of marijuana.

Subd. 2. **Commissioner duties.** (a) The commissioner shall:

(1) give notice of the program to health care practitioners in the state who are eligible to serve as health care practitioners and explain the purposes and requirements of the program;

(2) allow each health care practitioner who meets or agrees to meet the program's requirements and who requests to participate, to be included in the registry program to collect data for the patient registry;

(3) provide explanatory information and assistance to each health care practitioner in understanding the nature of therapeutic use of medical cannabis within program requirements;

(4) create and provide a certification to be used by a health care practitioner for the practitioner to certify whether a patient has been diagnosed with a qualifying medical condition and include in the certification an option for the practitioner to certify whether the patient, in the health care practitioner's medical opinion, is developmentally or physically disabled and, as a result of that disability, the patient requires assistance in administering medical cannabis or obtaining medical cannabis from a distribution facility;

(5) supervise the participation of the health care practitioner in conducting patient treatment and health records reporting in a manner that ensures stringent security and record-keeping requirements and that prevents the unauthorized release of private data on individuals as defined by section 13.02;

(6) develop safety criteria for patients with a qualifying medical condition as a requirement of the patient's participation in the program, to prevent the patient from undertaking any task under the influence of medical cannabis that would constitute negligence or professional malpractice on the part of the patient; and

(7) conduct research and studies based on data from health records submitted to the registry program and submit reports on intermediate or final research results to the legislature and major scientific journals. The commissioner may contract with a third party to complete the requirements of this clause. Any reports submitted must comply with section 152.28, subdivision 2.

(b) The commissioner may add a delivery method under section 152.22, subdivision 6, or add, remove, or modify a qualifying medical condition under section 152.22, subdivision 14, upon a petition from a member of the public or the task force on medical cannabis therapeutic research or as directed by law. The commissioner shall evaluate all petitions to add a qualifying medical condition or to remove or modify an existing qualifying medical condition submitted by the task force on medical cannabis therapeutic research or as directed by law and may make the addition, removal, or modification if the commissioner determines the addition, removal, or modification is warranted based on the best available evidence and research. If the commissioner wishes to add a delivery method under section 152.22, subdivision 6, or add or remove a qualifying medical condition under section 152.22, subdivision 14, the commissioner must notify the chairs and ranking minority members of the legislative policy committees having jurisdiction over health and public safety of the addition or removal and the reasons for its addition or removal, including any written comments received by the commissioner from the public and any guidance received from the task force on medical cannabis research, by January 15 of the year in which the commissioner wishes to make the change. The change shall be effective on August 1 of that year, unless the legislature by law provides otherwise.

Subd. 3. **Patient application.** (a) The commissioner shall develop a patient application for enrollment into the registry program. The application shall be available to the patient and given to health care practitioners in the state who are eligible to serve as health care practitioners. The application must include:

(1) the name, mailing address, and date of birth of the patient;

(2) the name, mailing address, and telephone number of the patient's health care practitioner;

(3) the name, mailing address, and date of birth of the patient's designated caregiver, if any, or the patient's parent, legal guardian, or spouse if the parent, legal guardian, or spouse will be acting as a caregiver;

(4) a copy of the certification from the patient's health care practitioner that is dated within 90 days prior to submitting the application that certifies that the patient has been diagnosed with a qualifying medical condition; and

(5) all other signed affidavits and enrollment forms required by the commissioner under sections 152.22 to 152.37, including, but not limited to, the disclosure form required under paragraph (c).

(b) The commissioner shall require a patient to resubmit a copy of the certification from the patient's health care practitioner on a yearly basis and shall require that the recertification be dated within 90 days of submission.

(c) The commissioner shall develop a disclosure form and require, as a condition of enrollment, all patients to sign a copy of the disclosure. The disclosure must include:

(1) a statement that, notwithstanding any law to the contrary, the commissioner, or an employee of any state agency, may not be held civilly or criminally liable for any injury, loss of property, personal injury, or death caused by any act or omission while acting within the scope of office or employment under sections 152.22 to 152.37; and

(2) the patient's acknowledgment that enrollment in the patient registry program is conditional on the patient's agreement to meet all of the requirements of sections 152.22 to 152.37.

Subd. 4. **Registered designated caregiver.** (a) The commissioner shall register a designated caregiver for a patient if the patient requires assistance in administering medical cannabis or obtaining medical cannabis from a distribution facility and the caregiver has agreed, in writing, to be the patient's designated caregiver. As a condition of registration as a designated caregiver, the commissioner shall require the person to:

(1) be at least 18 years of age;

(2) agree to only possess the patient's medical cannabis for purposes of assisting the patient; and

(3) agree that if the application is approved, the person will not be a registered designated caregiver for more than six registered patients at one time. Patients who reside in the same residence shall count as one patient.

(b) The commissioner shall conduct a criminal background check on the designated caregiver prior to registration to ensure that the person does not have a conviction for a disqualifying felony offense. Any cost of the background check shall be paid by the person seeking registration as a designated caregiver. A designated caregiver must have the criminal background check renewed every two years.

(c) Nothing in sections 152.22 to 152.37 shall be construed to prevent a person registered as a designated caregiver from also being enrolled in the registry program as a patient and possessing and using medical cannabis as a patient.

Subd. 5. **Parents, legal guardians, and spouses.** A parent, legal guardian, or spouse of a patient may act as the caregiver to the patient without having to register as a designated caregiver. The parent, legal guardian, or spouse shall follow all of the requirements of parents, legal guardians, and spouses listed in sections 152.22 to 152.37. Nothing in sections 152.22 to 152.37 limits any legal authority a parent, legal guardian, or spouse may have for the patient under any other law.

Subd. 6. **Patient enrollment.** (a) After receipt of a patient's application, application fees, and signed disclosure, the commissioner shall enroll the patient in the registry program and issue the patient and patient's registered designated caregiver or parent, legal guardian, or spouse, if applicable, a registry verification. The commissioner shall approve or deny a patient's application for participation in the registry program within 30 days after the commissioner receives the patient's application and application fee. The commissioner may approve applications up to 60 days after the receipt of a patient's application and application fees until January 1, 2016. A patient's enrollment in the registry program shall only be denied if the patient:

(1) does not have certification from a health care practitioner that the patient has been diagnosed with a qualifying medical condition;

(2) has not signed and returned the disclosure form required under subdivision 3, paragraph (c), to the commissioner;

(3) does not provide the information required;

(4) has previously been removed from the registry program for violations of section 152.30 or 152.33; or

(5) provides false information.

(b) The commissioner shall give written notice to a patient of the reason for denying enrollment in the registry program.

(c) Denial of enrollment into the registry program is considered a final decision of the commissioner and is subject to judicial review under the Administrative Procedure Act pursuant to chapter 14.

(d) A patient's enrollment in the registry program may only be revoked upon the death of the patient or if a patient violates a requirement under section 152.30 or 152.33.

(e) The commissioner shall develop a registry verification to provide to the patient, the health care practitioner identified in the patient's application, and to the manufacturer. The registry verification shall include:

(1) the patient's name and date of birth;

(2) the patient registry number assigned to the patient; and

(3) the name and date of birth of the patient's registered designated caregiver, if any, or the name of the patient's parent, legal guardian, or spouse if the parent, legal guardian, or spouse will be acting as a caregiver.

Subd. 7. **Notice requirements.** Patients and registered designated caregivers shall notify the commissioner of any address or name change within 30 days of the change having occurred. A patient or registered designated caregiver is subject to a $100 fine for failure to notify the commissioner of the change.

**History:** *2014 c 311 s 7; 2015 c 74 s 4; 1Sp2019 c 9 art 11 s 87-91; 2021 c 30 art 3 s 33-35*

**152.28 HEALTH CARE PRACTITIONER DUTIES.**

Subdivision 1. **Health care practitioner duties.** (a) Prior to a patient's enrollment in the registry program, a health care practitioner shall:

(1) determine, in the health care practitioner's medical judgment, whether a patient suffers from a qualifying medical condition, and, if so determined, provide the patient with a certification of that diagnosis;

(2) advise patients, registered designated caregivers, and parents, legal guardians, or spouses who are acting as caregivers of the existence of any nonprofit patient support groups or organizations;

(3) provide explanatory information from the commissioner to patients with qualifying medical conditions, including disclosure to all patients about the experimental nature of therapeutic use of medical cannabis; the possible risks, benefits, and side effects of the proposed treatment; the application and other materials from the commissioner; and provide patients with the Tennessen warning as required by section 13.04, subdivision 2; and

(4) agree to continue treatment of the patient's qualifying medical condition and report medical findings to the commissioner.

(b) Upon notification from the commissioner of the patient's enrollment in the registry program, the health care practitioner shall:

(1) participate in the patient registry reporting system under the guidance and supervision of the commissioner;

(2) report health records of the patient throughout the ongoing treatment of the patient to the commissioner in a manner determined by the commissioner and in accordance with subdivision 2;

(3) determine, on a yearly basis, if the patient continues to suffer from a qualifying medical condition and, if so, issue the patient a new certification of that diagnosis; and

(4) otherwise comply with all requirements developed by the commissioner.

(c) A health care practitioner may conduct a patient assessment to issue a recertification as required under paragraph (b), clause (3), via telehealth, as defined in section 62A.673, subdivision 2.

(d) Nothing in this section requires a health care practitioner to participate in the registry program.

Subd. 2. **Data.** Data collected on patients by a health care practitioner and reported to the patient registry are health records under section 144.291, and are private data on individuals under section 13.02, but may be used or reported in an aggregated, nonidentifiable form as part of a scientific, peer-reviewed publication of research conducted under section 152.25 or in the creation of summary data, as defined in section 13.02, subdivision 19.

Subd. 3. **Advertising restrictions.** (a) A health care practitioner shall not publish or cause to be published any advertisement that:

(1) contains false or misleading statements about medical cannabis or about the medical cannabis registry program;

(2) uses colloquial terms to refer to medical cannabis, such as pot, weed, or grass;

(3) states or implies the health care practitioner is endorsed by the Department of Health or by the medical cannabis registry program;

(4) includes images of cannabis in its plant or leaf form or of cannabis-smoking paraphernalia; or

(5) contains medical symbols that could reasonably be confused with symbols of established medical associations or groups.

(b) A health care practitioner found by the commissioner to have violated this subdivision is prohibited from certifying that patients have a qualifying medical condition for purposes of patient participation in the registry program. The commissioner's decision that a health care practitioner has violated this subdivision is a final decision of the commissioner and is not subject to the contested case procedures in chapter 14.

**History:** *2014 c 311 s 8; 1Sp2017 c 6 art 10 s 126; 1Sp2019 c 9 art 11 s 92; 2021 c 30 art 3 s 36; 1Sp2021 c 7 art 6 s 28*

## 152.29 MANUFACTURER OF MEDICAL CANNABIS DUTIES.

Subdivision 1. **Manufacturer; requirements.** (a) A manufacturer may operate eight distribution facilities, which may include the manufacturer's single location for cultivation, harvesting, manufacturing, packaging, and processing but is not required to include that location. The commissioner shall designate the geographical service areas to be served by each manufacturer based on geographical need throughout the state to improve patient access. A manufacturer shall not have more than two distribution facilities in each geographical service area assigned to the manufacturer by the commissioner. A manufacturer shall operate only one location where all cultivation, harvesting, manufacturing, packaging, and processing of medical cannabis shall be conducted. This location may be one of the manufacturer's distribution facility sites. The additional distribution facilities may dispense medical cannabis and medical cannabis products but may not contain any medical cannabis in a form other than those forms allowed under section 152.22, subdivision 6, and the manufacturer shall not conduct any cultivation, harvesting, manufacturing, packaging, or processing at the other distribution facility sites. Any distribution facility operated by the manufacturer is subject to all of the requirements applying to the manufacturer under sections 152.22 to 152.37, including, but not limited to, security and distribution requirements.

(b) A manufacturer may acquire hemp grown in this state from a hemp grower, and may acquire hemp products produced by a hemp processor. A manufacturer may manufacture or process hemp and hemp products into an allowable form of medical cannabis under section 152.22, subdivision 6. Hemp and hemp products acquired by a manufacturer under this paragraph are subject to the same quality control program, security and testing requirements, and other requirements that apply to medical cannabis under sections 152.22 to 152.37 and Minnesota Rules, chapter 4770.

(c) A medical cannabis manufacturer shall contract with a laboratory approved by the commissioner, subject to any additional requirements set by the commissioner, for purposes of testing medical cannabis manufactured or hemp or hemp products acquired by the medical cannabis manufacturer as to content, contamination, and consistency to verify the medical cannabis meets the requirements of section 152.22, subdivision 6. The cost of laboratory testing shall be paid by the manufacturer.

(d) The operating documents of a manufacturer must include:

(1) procedures for the oversight of the manufacturer and procedures to ensure accurate record keeping;

(2) procedures for the implementation of appropriate security measures to deter and prevent the theft of medical cannabis and unauthorized entrance into areas containing medical cannabis; and

(3) procedures for the delivery and transportation of hemp between hemp growers and manufacturers and for the delivery and transportation of hemp products between hemp processors and manufacturers.

(e) A manufacturer shall implement security requirements, including requirements for the delivery and transportation of hemp and hemp products, protection of each location by a fully operational security alarm system, facility access controls, perimeter intrusion detection systems, and a personnel identification system.

(f) A manufacturer shall not share office space with, refer patients to a health care practitioner, or have any financial relationship with a health care practitioner.

(g) A manufacturer shall not permit any person to consume medical cannabis on the property of the manufacturer.

(h) A manufacturer is subject to reasonable inspection by the commissioner.

(i) For purposes of sections 152.22 to 152.37, a medical cannabis manufacturer is not subject to the Board of Pharmacy licensure or regulatory requirements under chapter 151.

(j) A medical cannabis manufacturer may not employ any person who is under 21 years of age or who has been convicted of a disqualifying felony offense. An employee of a medical cannabis manufacturer must submit a completed criminal history records check consent form, a full set of classifiable fingerprints, and the required fees for submission to the Bureau of Criminal Apprehension before an employee may begin working with the manufacturer. The bureau must conduct a Minnesota criminal history records check and the superintendent is authorized to exchange the fingerprints with the Federal Bureau of Investigation to obtain the applicant's national criminal history record information. The bureau shall return the results of the Minnesota and federal criminal history records checks to the commissioner.

(k) A manufacturer may not operate in any location, whether for distribution or cultivation, harvesting, manufacturing, packaging, or processing, within 1,000 feet of a public or private school existing before the date of the manufacturer's registration with the commissioner.

(l) A manufacturer shall comply with reasonable restrictions set by the commissioner relating to signage, marketing, display, and advertising of medical cannabis.

(m) Before a manufacturer acquires hemp from a hemp grower or hemp products from a hemp processor, the manufacturer must verify that the hemp grower or hemp processor has a valid license issued by the commissioner of agriculture under chapter 18K.

(n) Until a state-centralized, seed-to-sale system is implemented that can track a specific medical cannabis plant from cultivation through testing and point of sale, the commissioner shall conduct at least one unannounced inspection per year of each manufacturer that includes inspection of:

(1) business operations;

(2) physical locations of the manufacturer's manufacturing facility and distribution facilities;

(3) financial information and inventory documentation, including laboratory testing results; and

(4) physical and electronic security alarm systems.

Subd. 2. **Manufacturer; production.** (a) A manufacturer of medical cannabis shall provide a reliable and ongoing supply of all medical cannabis needed for the registry program through cultivation by the manufacturer and through the purchase of hemp from hemp growers.

(b) All cultivation, harvesting, manufacturing, packaging, and processing of medical cannabis must take place in an enclosed, locked facility at a physical address provided to the commissioner during the registration process.

(c) A manufacturer must process and prepare any medical cannabis plant material or hemp plant material into a form allowable under section 152.22, subdivision 6, prior to distribution of any medical cannabis.

Subd. 3. **Manufacturer; distribution.** (a) A manufacturer shall require that employees licensed as pharmacists pursuant to chapter 151 be the only employees to give final approval for the distribution of medical cannabis to a patient. A manufacturer may transport medical cannabis or medical cannabis products that have been cultivated, harvested, manufactured, packaged, and processed by that manufacturer to another registered manufacturer for the other manufacturer to distribute.

(b) A manufacturer may distribute medical cannabis products, whether or not the products have been manufactured by that manufacturer.

(c) Prior to distribution of any medical cannabis, the manufacturer shall:

(1) verify that the manufacturer has received the registry verification from the commissioner for that individual patient;

(2) verify that the person requesting the distribution of medical cannabis is the patient, the patient's registered designated caregiver, or the patient's parent, legal guardian, or spouse listed in the registry verification using the procedures described in section 152.11, subdivision 2d;

(3) assign a tracking number to any medical cannabis distributed from the manufacturer;

(4) ensure that any employee of the manufacturer licensed as a pharmacist pursuant to chapter 151 has consulted with the patient to determine the proper dosage for the individual patient after reviewing the ranges of chemical compositions of the medical cannabis and the ranges of proper dosages reported by the commissioner. For purposes of this clause, a consultation may be conducted remotely by secure videoconference, telephone, or other remote means, so long as the employee providing the consultation is able to confirm the identity of the patient and the consultation adheres to patient privacy requirements that apply to health care services delivered through telehealth. A pharmacist consultation under this clause is not required when a manufacturer is distributing medical cannabis to a patient according to a patient-specific dosage plan established with that manufacturer and is not modifying the dosage or product being distributed under that plan and the medical cannabis is distributed by a pharmacy technician;

(5) properly package medical cannabis in compliance with the United States Poison Prevention Packing Act regarding child-resistant packaging and exemptions for packaging for elderly patients, and label distributed medical cannabis with a list of all active ingredients and individually identifying information, including:

(i) the patient's name and date of birth;

(ii) the name and date of birth of the patient's registered designated caregiver or, if listed on the registry verification, the name of the patient's parent or legal guardian, if applicable;

(iii) the patient's registry identification number;

(iv) the chemical composition of the medical cannabis; and

(v) the dosage; and

(6) ensure that the medical cannabis distributed contains a maximum of a 90-day supply of the dosage determined for that patient.

(d) A manufacturer shall require any employee of the manufacturer who is transporting medical cannabis or medical cannabis products to a distribution facility or to another registered manufacturer to carry identification showing that the person is an employee of the manufacturer.

(e) A manufacturer shall distribute medical cannabis in dried raw cannabis form only to a patient age 21 or older, or to the registered designated caregiver, parent, legal guardian, or spouse of a patient age 21 or older.

Subd. 3a. **Transportation of medical cannabis; staffing.** (a) A medical cannabis manufacturer may staff a transport motor vehicle with only one employee if the medical cannabis manufacturer is transporting

medical cannabis to either a certified laboratory for the purpose of testing or a facility for the purpose of disposal. If the medical cannabis manufacturer is transporting medical cannabis for any other purpose or destination, the transport motor vehicle must be staffed with a minimum of two employees as required by rules adopted by the commissioner.

(b) Notwithstanding paragraph (a), a medical cannabis manufacturer that is only transporting hemp for any purpose may staff the transport motor vehicle with only one employee.

Subd. 3b. **Distribution to recipient in a motor vehicle.** A manufacturer may distribute medical cannabis to a patient, registered designated caregiver, or parent, legal guardian, or spouse of a patient who is at the distribution facility but remains in a motor vehicle, provided:

(1) distribution facility staff receive payment and distribute medical cannabis in a designated zone that is as close as feasible to the front door of the distribution facility;

(2) the manufacturer ensures that the receipt of payment and distribution of medical cannabis are visually recorded by a closed-circuit television surveillance camera at the distribution facility and provides any other necessary security safeguards;

(3) the manufacturer does not store medical cannabis outside a restricted access area at the distribution facility, and distribution facility staff transport medical cannabis from a restricted access area at the distribution facility to the designated zone for distribution only after confirming that the patient, designated caregiver, or parent, guardian, or spouse has arrived in the designated zone;

(4) the payment and distribution of medical cannabis take place only after a pharmacist consultation takes place, if required under subdivision 3, paragraph (c), clause (4);

(5) immediately following distribution of medical cannabis, distribution facility staff enter the transaction in the state medical cannabis registry information technology database; and

(6) immediately following distribution of medical cannabis, distribution facility staff take the payment received into the distribution facility.

Subd. 3c. **Disposal of medical cannabis plant root balls.** Notwithstanding Minnesota Rules, part 4770.1200, subpart 2, item C, a manufacturer is not required to grind root balls of medical cannabis plants or incorporate them with a greater quantity of nonconsumable solid waste before transporting root balls to another location for disposal. For purposes of this subdivision, "root ball" means a compact mass of roots formed by a plant and any attached growing medium.

Subd. 4. **Report.** Each manufacturer shall report to the commissioner on a monthly basis the following information on each individual patient for the month prior to the report:

(1) the amount and dosages of medical cannabis distributed;

(2) the chemical composition of the medical cannabis; and

(3) the tracking number assigned to any medical cannabis distributed.

**History:** *2014 c 311 s 9; 2015 c 74 s 5; 2016 c 179 s 30,31; 1Sp2019 c 9 art 11 s 93-96; 2020 c 115 art 1 s 12; 2021 c 30 art 3 s 37-40; 1Sp2021 c 7 art 6 s 28*

**152.30 PATIENT DUTIES.**

(a) A patient shall apply to the commissioner for enrollment in the registry program by submitting an application as required in section 152.27 and an annual registration fee as determined under section 152.35.

(b) As a condition of continued enrollment, patients shall agree to:

(1) continue to receive regularly scheduled treatment for their qualifying medical condition from their health care practitioner; and

(2) report changes in their qualifying medical condition to their health care practitioner.

(c) A patient shall only receive medical cannabis from a registered manufacturer but is not required to receive medical cannabis products from only a registered manufacturer.

**History:** *2014 c 311 s 10*

**152.31 DATA PRACTICES.**

(a) Government data in patient files maintained by the commissioner and the health care practitioner, and data submitted to or by a medical cannabis manufacturer, are private data on individuals, as defined in section 13.02, subdivision 12, or nonpublic data, as defined in section 13.02, subdivision 9, but may be used for purposes of complying with chapter 13 and complying with a request from the legislative auditor or the state auditor in the performance of official duties. The provisions of section 13.05, subdivision 11, apply to a registration agreement entered between the commissioner and a medical cannabis manufacturer under section 152.25.

(b) Not public data maintained by the commissioner may not be used for any purpose not provided for in sections 152.22 to 152.37, and may not be combined or linked in any manner with any other list, dataset, or database.

(c) The commissioner may execute data sharing arrangements with the commissioner of agriculture to verify licensing, inspection, and compliance information related to hemp growers and hemp processors under chapter 18K.

**History:** *2014 c 311 s 11; 1Sp2019 c 9 art 11 s 97; 2021 c 30 art 3 s 41*

**152.32 PROTECTIONS FOR REGISTRY PROGRAM PARTICIPATION.**

Subdivision 1. **Presumption.** (a) There is a presumption that a patient enrolled in the registry program under sections 152.22 to 152.37 is engaged in the authorized use of medical cannabis.

(b) The presumption may be rebutted by evidence that conduct related to use of medical cannabis was not for the purpose of treating or alleviating the patient's qualifying medical condition or symptoms associated with the patient's qualifying medical condition.

Subd. 2. **Criminal and civil protections.** (a) Subject to section 152.23, the following are not violations under this chapter:

(1) use or possession of medical cannabis or medical cannabis products by a patient enrolled in the registry program, or possession by a registered designated caregiver or the parent, legal guardian, or spouse of a patient if the parent, legal guardian, or spouse is listed on the registry verification;

(2) possession, dosage determination, or sale of medical cannabis or medical cannabis products by a medical cannabis manufacturer, employees of a manufacturer, a laboratory conducting testing on medical cannabis, or employees of the laboratory; and

(3) possession of medical cannabis or medical cannabis products by any person while carrying out the duties required under sections 152.22 to 152.37.

(b) Medical cannabis obtained and distributed pursuant to sections 152.22 to 152.37 and associated property is not subject to forfeiture under sections 609.531 to 609.5316.

(c) The commissioner, the commissioner's staff, the commissioner's agents or contractors, and any health care practitioner are not subject to any civil or disciplinary penalties by the Board of Medical Practice, the Board of Nursing, or by any business, occupational, or professional licensing board or entity, solely for the participation in the registry program under sections 152.22 to 152.37. A pharmacist licensed under chapter 151 is not subject to any civil or disciplinary penalties by the Board of Pharmacy when acting in accordance with the provisions of sections 152.22 to 152.37. Nothing in this section affects a professional licensing board from taking action in response to violations of any other section of law.

(d) Notwithstanding any law to the contrary, the commissioner, the governor of Minnesota, or an employee of any state agency may not be held civilly or criminally liable for any injury, loss of property, personal injury, or death caused by any act or omission while acting within the scope of office or employment under sections 152.22 to 152.37.

(e) Federal, state, and local law enforcement authorities are prohibited from accessing the patient registry under sections 152.22 to 152.37 except when acting pursuant to a valid search warrant.

(f) Notwithstanding any law to the contrary, neither the commissioner nor a public employee may release data or information about an individual contained in any report, document, or registry created under sections 152.22 to 152.37 or any information obtained about a patient participating in the program, except as provided in sections 152.22 to 152.37.

(g) No information contained in a report, document, or registry or obtained from a patient under sections 152.22 to 152.37 may be admitted as evidence in a criminal proceeding unless independently obtained or in connection with a proceeding involving a violation of sections 152.22 to 152.37.

(h) Notwithstanding section 13.09, any person who violates paragraph (e) or (f) is guilty of a gross misdemeanor.

(i) An attorney may not be subject to disciplinary action by the Minnesota Supreme Court or professional responsibility board for providing legal assistance to prospective or registered manufacturers or others related to activity that is no longer subject to criminal penalties under state law pursuant to sections 152.22 to 152.37.

(j) Possession of a registry verification or application for enrollment in the program by a person entitled to possess or apply for enrollment in the registry program does not constitute probable cause or reasonable suspicion, nor shall it be used to support a search of the person or property of the person possessing or applying for the registry verification, or otherwise subject the person or property of the person to inspection by any governmental agency.

Subd. 3. **Discrimination prohibited.** (a) No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for the person's status as a patient enrolled in the registry program under sections 152.22 to 152.37, unless failing to do so would violate federal law or regulations or cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulations.

(b) For the purposes of medical care, including organ transplants, a registry program enrollee's use of medical cannabis under sections 152.22 to 152.37 is considered the equivalent of the authorized use of any other medication used at the discretion of a physician, advanced practice registered nurse, or physician assistant and does not constitute the use of an illicit substance or otherwise disqualify a patient from needed medical care.

(c) Unless a failure to do so would violate federal law or regulations or cause an employer to lose a monetary or licensing-related benefit under federal law or regulations, an employer may not discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalize a person, if the discrimination is based upon either of the following:

(1) the person's status as a patient enrolled in the registry program under sections 152.22 to 152.37; or

(2) a patient's positive drug test for cannabis components or metabolites, unless the patient used, possessed, or was impaired by medical cannabis on the premises of the place of employment or during the hours of employment.

(d) An employee who is required to undergo employer drug testing pursuant to section 181.953 may present verification of enrollment in the patient registry as part of the employee's explanation under section 181.953, subdivision 6.

(e) A person shall not be denied custody of a minor child or visitation rights or parenting time with a minor child solely based on the person's status as a patient enrolled in the registry program under sections 152.22 to 152.37. There shall be no presumption of neglect or child endangerment for conduct allowed under sections 152.22 to 152.37, unless the person's behavior is such that it creates an unreasonable danger to the safety of the minor as established by clear and convincing evidence.

**History:** *2014 c 311 s 12; 1Sp2019 c 9 art 11 s 98; 2020 c 115 art 4 s 76; 2022 c 58 s 93*

**152.33 VIOLATIONS.**

Subdivision 1. **Intentional diversion; criminal penalty.** In addition to any other applicable penalty in law, a manufacturer or an agent of a manufacturer who intentionally transfers medical cannabis to a person other than another registered manufacturer, a patient, a registered designated caregiver or, if listed on the registry verification, a parent, legal guardian, or spouse of a patient is guilty of a felony punishable by imprisonment for not more than two years or by payment of a fine of not more than $3,000, or both. A person convicted under this subdivision may not continue to be affiliated with the manufacturer and is disqualified from further participation under sections 152.22 to 152.37.

Subd. 1a. **Intentional diversion outside the state; penalties.** (a) In addition to any other applicable penalty in law, the commissioner may levy a fine of $250,000 against a manufacturer and may immediately initiate proceedings to revoke the manufacturer's registration, using the procedure in section 152.25, if:

(1) an officer, director, or controlling person of the manufacturer pleads or is found guilty under subdivision 1 of intentionally transferring medical cannabis, while the person was an officer, director, or controlling person of the manufacturer, to a person other than allowed by law; and

(2) in intentionally transferring medical cannabis to a person other than allowed by law, the officer, director, or controlling person transported or directed the transport of medical cannabis outside of Minnesota.

(b) All fines collected under this subdivision shall be deposited in the state government special revenue fund.

Subd. 2. **Diversion by patient, registered designated caregiver, parent, legal guardian, or patient's spouse; criminal penalty.** In addition to any other applicable penalty in law, a patient, registered designated caregiver or, if listed on the registry verification, a parent, legal guardian, or spouse of a patient who intentionally sells or otherwise transfers medical cannabis to a person other than a patient, designated registered caregiver or, if listed on the registry verification, a parent, legal guardian, or spouse of a patient is guilty of a felony punishable by imprisonment for not more than two years or by payment of a fine of not more than $3,000, or both.

Subd. 3. **False statement; criminal penalty.** A person who intentionally makes a false statement to a law enforcement official about any fact or circumstance relating to the medical use of cannabis to avoid arrest or prosecution is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or by payment of a fine of not more than $1,000, or both. The penalty is in addition to any other penalties that may apply for making a false statement or for the possession, cultivation, or sale of cannabis not protected by sections 152.22 to 152.37. If a person convicted of violating this subdivision is a patient or a registered designated caregiver, the person is disqualified from further participation under sections 152.22 to 152.37.

Subd. 4. **Submission of false records; criminal penalty.** A person who knowingly submits false records or documentation required by the commissioner to register as a manufacturer of medical cannabis under sections 152.22 to 152.37 is guilty of a felony and may be sentenced to imprisonment for not more than two years or by payment of a fine of not more than $3,000, or both.

Subd. 5. **Violation by health care practitioner; criminal penalty.** A health care practitioner who knowingly refers patients to a manufacturer or to a designated caregiver, who advertises as a manufacturer, or who issues certifications while holding a financial interest in a manufacturer is guilty of a misdemeanor and may be sentenced to imprisonment for not more than 90 days or by payment of a fine of not more than $1,000, or both.

Subd. 6. **Other violations; civil penalty.** A manufacturer shall be fined up to $1,000 for any violation of sections 152.22 to 152.37, or the regulations issued pursuant to them, where no penalty has been specified. This penalty is in addition to any other applicable penalties in law.

**History:** *2014 c 311 s 13; 1Sp2017 c 6 art 10 s 127; 1Sp2019 c 9 art 11 s 99,100*

**152.34 HEALTH CARE FACILITIES.**

(a) Health care facilities licensed under chapter 144A, hospice providers licensed under chapter 144A, boarding care homes or supervised living facilities licensed under section 144.50, assisted living facilities, facilities owned, controlled, managed, or under common control with hospitals licensed under chapter 144, and other health facilities licensed by the commissioner of health, may adopt reasonable restrictions on the use of medical cannabis by a patient enrolled in the registry program who resides at or is actively receiving treatment or care at the facility. The restrictions may include a provision that the facility will not store or maintain the patient's supply of medical cannabis, that the facility is not responsible for providing the medical cannabis for patients, and that medical cannabis be used only in a place specified by the facility.

(b) Any employee or agent of a facility listed in this section or a person licensed under chapter 144E is not subject to violations under this chapter for possession of medical cannabis while carrying out employment duties, including providing or supervising care to a registered patient, or distribution of medical cannabis to a registered patient who resides at or is actively receiving treatment or care at the facility with which the employee or agent is affiliated. Nothing in this section shall require the facilities to adopt such restrictions

and no facility shall unreasonably limit a patient's access to or use of medical cannabis to the extent that use is authorized by the patient under sections 152.22 to 152.37.

**History:** *2014 c 311 s 14; 2015 c 74 s 6; 1Sp2019 c 9 art 11 s 101*

**152.35 FEES; DEPOSIT OF REVENUE.**

(a) The commissioner shall collect an enrollment fee of $200 from patients enrolled under this section. If the patient provides evidence of receiving Social Security disability insurance (SSDI), Supplemental Security Income (SSI), veterans disability, or railroad disability payments, or being enrolled in medical assistance or MinnesotaCare, then the fee shall be $50. For purposes of this section:

(1) a patient is considered to receive SSDI if the patient was receiving SSDI at the time the patient was transitioned to retirement benefits by the United States Social Security Administration; and

(2) veterans disability payments include VA dependency and indemnity compensation.

Unless a patient provides evidence of receiving payments from or participating in one of the programs specifically listed in this paragraph, the commissioner of health must collect the $200 enrollment fee from a patient to enroll the patient in the registry program. The fees shall be payable annually and are due on the anniversary date of the patient's enrollment. The fee amount shall be deposited in the state treasury and credited to the state government special revenue fund.

(b) The commissioner shall collect an application fee of $20,000 from each entity submitting an application for registration as a medical cannabis manufacturer. Revenue from the fee shall be deposited in the state treasury and credited to the state government special revenue fund.

(c) The commissioner shall establish and collect an annual fee from a medical cannabis manufacturer equal to the cost of regulating and inspecting the manufacturer in that year. Revenue from the fee amount shall be deposited in the state treasury and credited to the state government special revenue fund.

(d) A medical cannabis manufacturer may charge patients enrolled in the registry program a reasonable fee for costs associated with the operations of the manufacturer. The manufacturer may establish a sliding scale of patient fees based upon a patient's household income and may accept private donations to reduce patient fees.

**History:** *2014 c 311 s 15; 2020 c 115 art 1 s 13*

**152.36 IMPACT ASSESSMENT OF MEDICAL CANNABIS THERAPEUTIC RESEARCH.**

Subdivision 1. **Task force on medical cannabis therapeutic research.** (a) A 23-member task force on medical cannabis therapeutic research is created to conduct an impact assessment of medical cannabis therapeutic research. The task force shall consist of the following members:

(1) two members of the house of representatives, one selected by the speaker of the house, the other selected by the minority leader;

(2) two members of the senate, one selected by the majority leader, the other selected by the minority leader;

(3) four members representing consumers or patients enrolled in the registry program, including at least two parents of patients under age 18;

(4) four members representing health care providers, including one licensed pharmacist;

(5) four members representing law enforcement, one from the Minnesota Chiefs of Police Association, one from the Minnesota Sheriff's Association, one from the Minnesota Police and Peace Officers Association, and one from the Minnesota County Attorneys Association;

(6) four members representing substance use disorder treatment providers; and

(7) the commissioners of health, human services, and public safety.

(b) Task force members listed under paragraph (a), clauses (3), (4), (5), and (6), shall be appointed by the governor under the appointment process in section 15.0597. Members shall serve on the task force at the pleasure of the appointing authority. All members must be appointed by July 15, 2014, and the commissioner of health shall convene the first meeting of the task force by August 1, 2014.

(c) There shall be two cochairs of the task force chosen from the members listed under paragraph (a). One cochair shall be selected by the speaker of the house and the other cochair shall be selected by the majority leader of the senate. The authority to convene meetings shall alternate between the cochairs.

(d) Members of the task force other than those in paragraph (a), clauses (1), (2), and (7), shall receive expenses as provided in section 15.059, subdivision 6.

Subd. 1a. **Administration.** The commissioner of health shall provide administrative and technical support to the task force.

Subd. 2. **Impact assessment.** The task force shall hold hearings to evaluate the impact of the use of medical cannabis and hemp and Minnesota's activities involving medical cannabis and hemp, including, but not limited to:

(1) program design and implementation;

(2) the impact on the health care provider community;

(3) patient experiences;

(4) the impact on the incidence of substance abuse;

(5) access to and quality of medical cannabis, hemp, and medical cannabis products;

(6) the impact on law enforcement and prosecutions;

(7) public awareness and perception; and

(8) any unintended consequences.

Subd. 3. **Cost assessment.** By January 15 of each year, beginning January 15, 2015, and ending January 15, 2019, the commissioners of state departments impacted by the medical cannabis therapeutic research study shall report to the cochairs of the task force on the costs incurred by each department on implementing sections 152.22 to 152.37. The reports must compare actual costs to the estimated costs of implementing these sections and must be submitted to the task force on medical cannabis therapeutic research.

Subd. 4. **Reports to the legislature.** (a) The cochairs of the task force shall submit the following reports to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over health and human services, public safety, judiciary, and civil law:

(1) by February 1, 2015, a report on the design and implementation of the registry program; and every two years thereafter, a complete impact assessment report; and

(2) upon receipt of a cost assessment from a commissioner of a state agency, the completed cost assessment.

(b) The task force may make recommendations to the legislature on whether to add or remove conditions from the list of qualifying medical conditions.

Subd. 5. **No expiration.** The task force on medical cannabis therapeutic research does not expire.

**History:** *2014 c 311 s 16; 2016 c 179 s 32,33; 1Sp2019 c 9 art 11 s 102*

**152.37 FINANCIAL EXAMINATIONS; PRICING REVIEWS.**

Subdivision 1. **Financial records.** A medical cannabis manufacturer shall maintain detailed financial records in a manner and format approved by the commissioner, and shall keep all records updated and accessible to the commissioner when requested.

Subd. 2. **Certified annual audit.** A medical cannabis manufacturer shall submit the results of an annual certified financial audit to the commissioner no later than May 1 of each year for the calendar year beginning January 2015. The annual audit shall be conducted by an independent certified public accountant and the costs of the audit are the responsibility of the medical cannabis manufacturer. Results of the audit shall be provided to the medical cannabis manufacturer and the commissioner. The commissioner may also require another audit of the medical cannabis manufacturer by a certified public accountant chosen by the commissioner with the costs of the audit paid by the medical cannabis manufacturer.

Subd. 3. **Power to examine.** (a) The commissioner or designee may examine the business affairs and conditions of any medical cannabis manufacturer, including but not limited to a review of the financing, budgets, revenues, sales, and pricing.

(b) An examination may cover the medical cannabis manufacturer's business affairs, practices, and conditions including but not limited to a review of the financing, budgets, revenues, sales, and pricing. The commissioner shall determine the nature and scope of each examination and in doing so shall take into account all available relevant factors concerning the financial and business affairs, practices, and conditions of the examinee. The costs incurred by the department in conducting an examination shall be paid for by the medical cannabis manufacturer.

(c) When making an examination under this section, the commissioner may retain attorneys, appraisers, independent economists, independent certified public accountants, or other professionals and specialists as designees. A certified public accountant retained by the commissioner may not be the same certified public accountant providing the certified annual audit in subdivision 2.

(d) The commissioner shall make a report of an examination conducted under this section and provide a copy to the medical cannabis manufacturer. The commissioner shall then post a copy of the report on the department's website. All working papers, recorded information, documents, and copies produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination, other than the information contained in any commissioner official report, made under this section are private data on individuals or nonpublic data, as defined in section 13.02.

**History:** *2014 c 311 s 17; 2015 c 74 s 10*