

MINNESOTA BOARD OF PHARMACY

2014 LEGISLATIVE CHANGES RELATIVE TO PHARMACY

During the 2014 legislative session, several new laws were passed that will have an impact on pharmacists. The following brief summary is adapted from a report given to the Board at its June meeting. The actual text of the laws can be found after the summary. In the future the Board will present additional information summarizing these changes and providing additional details.

HF 2402 was the vehicle for the 2014 Health and Human Services Omnibus Policy bill. The Board's General Policy Bill was amended into HF 2402, which was passed by the Legislature and signed into law by Governor Dayton. Almost all of the language proposed by the Board in its general policy bill made it into law. (*2014 Session Laws, Chapter 291 - see Appendix C for the actual language found in Chapter 291 that was either sponsored by the Board or that has an impact on the Board*).

The following description of changes related to the Board's Prescription Monitoring Program is taken from a House of Representatives Research Summary. The most significant changes are highlighted.

"Prescription monitoring program. Amends § 152.126.

The amendment to subdivision 1:

- ***Requires reporting for schedule V controlled substances, and classifies tramadol and butalbital as controlled substances for purposes of the program.***
- Adds veterinarians to the definition of "prescriber."

The amendment to subdivision 3:

- ***Renames the Prescription Electronic Reporting Advisory Committee the Prescription Monitoring Program Advisory Task Force and makes related changes.***
- Specifies that the task force is governed by section 15.059 (standard language on governance of advisory committees), but does not expire.

The amendment to subdivision 4:

- Exempts dispensers from reporting controlled substance prescriptions for persons residing in a health care facility, when the drug is distributed through the use of an automated drug distribution system. "Health care facility" is defined as a nursing home, housing with services establishment, community behavioral health hospital, or the Minnesota sex offender facility. Also exempts individuals receiving drug samples. ***This language narrows the reporting exemption relative to current law, under which the exemption applies to individuals: residing in a skilled nursing or intermediate care facility, receiving assisted living or MA waiver services, receiving medication intravenously, receiving hospice and related care, and receiving home care services.***

- Clarifies an existing requirement that patients be given conspicuous notice of the reporting requirements, and also *requires notice to be given that the information may be used for program administration.*

The amendment to **subdivision 5**:

- *Requires data reported to be available to permissible users for 12 months (current law requires the data to be retained for 12 months and then removed from the database), except that certain staff may use all data collected under the program to administer, operate, and maintain the program and conduct trend analyses and other studies. Requires data retained beyond 24 months to be de-identified.*
- *Allows the board to retain the data for up to three years from the date the data was received..*

The amendment to **subdivision 6**:

- *Allows a prescriber to access the data for a patient to whom the prescriber is providing emergency medical treatment or other medical treatment if the patient has consented to access.*
- *Allows a pharmacist to access data for a patient to whom the pharmacist is providing pharmaceutical care if the patient has consented to access.*
- Requires vendors under contract with the board to comply with data requirements related to de-identification and time limits for retention.
- Allows personnel of Minnesota health care programs to use the data to identify persons for the restricted recipient program and makes related changes (current law refers just to medical assistance).
- *Allows access by personnel of the health professionals services program, if certain conditions are met.*
- Limits electronic access to the data to certain specified groups of individuals.
- *Strikes language prohibiting the board from releasing the name of a prescriber without that prescriber's consent or a valid search warrant or court order.*
- Specifies that log of persons accessing the data must be maintained by the board for at least three years (no time period is specified in current law).
- *Allows the board to participate in an interstate PMP data exchange system.*

Study required; prescription monitoring program database. Paragraph (a) requires the board of pharmacy, in collaboration with the Prescription Monitoring Program Advisory Task Force, shall report to the chairs and ranking minority members of the relevant legislative committees, by December 15, 2014: (1) recommendations on whether or not to require use of the prescription monitoring program by prescribers and pharmacists; (2) an analysis of the impact of the program on rates of chemical abuse and prescription drug abuse; and (3) recommendations on approaches to encourage access to appropriate treatment for prescription drug abuse, through the program. Paragraph (b) requires the board, in collaboration with the task force, to assess the impact of the PMP on doctor-shopping activity. Requires a report to relevant legislative committees by December 15, 2016."

The following description of changes related to provisions from the Board's General Policy Bill is taken from a House of Representatives Research Summary. The most significant changes are

highlighted in .

Definitions. Amends § 151.01. Amends and adds various definitions to the Pharmacy Practice Act. Only amended and new definitions are described in this summary.

Subd. 2. Pharmacy. Updates the definition of “pharmacy.”

Subd. 5. Drug. Adds vaccines and biologicals to the definition of “drug.” Adds that the term “drug” includes any compound, substance, or derivative, not approved for human use by the FDA or permitted for use by Minnesota law, that induces effects similar to Schedule I or II controlled substances.

Subd. 7. Poisons. Makes two technical changes.

Subd. 9. Board or Board of Pharmacy. Strikes the word “State” from the board’s name.

Subd. 10. Director. Adds the word “executive” so that the term “director” refers to the executive director of the board.

Subd. 13. Commercial purposes. Excludes “other health care professions” from the definition of “commercial purposes.” Current law already excludes the practices of medicine and pharmacy.

Subd. 14. Manufacturing. Redefines the term to mean the preparation or processing of a drug by extraction from substances of natural origin or independently by means of chemical or biological synthesis. This term includes packaging or repackaging a drug, or labeling or relabeling a container of a drug. It does not include the labeling of a container within a pharmacy or by a practitioner for dispensing to a patient pursuant to a prescription.

Subd. 14a. Manufacturer. Adds the definition for this term and defines it as any person engaged in manufacturing.

Subd. 14b. Outsourcing facility. Adds the definition for this term. The term means a facility that meets federal requirements and registers with the FDA. These facilities compound human drugs.

Subd. 16. Prescription drug order. Adds the definition of “prescription drug order.” Provides that such an order may be written, oral, or electronic, and must be for a specific patient. Requires orders for controlled substances to be prepared according to state and federal laws.

Subd. 16a. Prescription. Adds a new definition for “prescription.” Lists the requirements and information that must be included on a valid prescription drug order.

Subd. 16b. Chart order. Adds this definition which means a prescription drug order for a drug that is to be administered to a patient in a hospital or long-term care facility. Lists the information that must be included in a valid chart order.

Subd. 17. Legend drug. Strikes the requirement for a specific cautionary statement to be included with legend drugs. Requires legend drugs to be dispensed by prescription only.

Subd. 18. Label. Strikes an obsolete cross-reference. Clarifies that any information required to appear on a drug or medicine label must be clearly visible on the outside of the container or wrapper.

Subd. 23. Practitioner. Requires drug manufacturers required to report payments to practitioners to include in their annual report the names of physician assistants and APRNs who are authorized to prescribe, dispense, and administer drugs, and dental therapists who are authorized to dispense and administer drugs.

Subd. 27. Practice of pharmacy. Adds that it is within a pharmacist's scope of practice to interpret results of laboratory tests to monitor drug therapy, but may modify the therapy only pursuant to a protocol or collaborative practice agreement. Clarifies the conditions under which a pharmacist can administer influenza vaccines. Allows pharmacists to participate in collaborative practice agreements (this term is defined in subdivision 27b).

Subd. 27a. Protocol. Defines "protocol" as a written plan describing the activities in which a pharmacist engages when initiating, modifying, managing, or discontinuing drug therapy; or a plan that authorizes the pharmacist to administer vaccines.

Subd. 27b. Collaborative practice. Defines this term as patient care activities engaged in by one or more pharmacists who work collaboratively with one or more practitioners to initiate, manage, and modify drug therapy.

Subd. 27c. Collaborative practice agreement. Provides that this is a written, signed agreement between one or more pharmacists and one or more practitioners to engage in collaborative practice.

Subd. 28. Veterinary legend drug. Strikes the requirement for a specific cautionary statement to be included with legend drugs. Requires legend drugs to be dispensed by prescription only.

Subd. 29. Legend medical gas. Strikes the requirement for a specific cautionary statement to be included with legend medical gases. Requires these gases to be dispensed by prescription only.

Subd. 30. Dispense or dispensing. Defines these terms as the interpretation and processing of a prescription drug order in compliance with board rules.

Subd. 35. Compounding. Creates a new definition. Defines "compounding" as the preparation, mixing, assembling, packaging, and labeling of a drug for a specific patient pursuant to a prescription drug order. This term includes anticipatory compounding and preparation of drugs in which all bulk drug substances and components are nonprescription substances. Provides that the term does not include preparation of a drug for research, teaching, or chemical analysis, nor does the term include minor deviations from directions when acting under the supervision of a nuclear pharmacist or a physician.

Subd. 36. Anticipatory compounding. Creates a new definition which means a pharmacy's or practitioner's preparation of a supply of a compounded drug product sufficient to meet the pharmacy's short-term need for filling prescriptions or a practitioner's need for dispensing or administering the drug to patients treated by the practitioner.

Subd. 37. Extemporaneous compounding. Adds a new definition which means the compounding of a drug product pursuant to a prescription drug order that is issued in advance of the compounding.

Subd. 38. Compounded positron emission tomography drug. Creates a definition for this term. This means a drug used for PET scans images, and compounded in compliance with Minnesota Rules for a patient or research, teaching, or quality control.

Powers and duties. Amends § 151.06.

Subd. 1. Generally; rules. Strikes the list of conduct which may be grounds for disciplinary action. (A new statutory section on disciplinary action is created in section 3 of this bill.) Authorizes a representative of the board to enter and inspect any

business licensed or registered by the board.

Subd. 1a. Cease and desist orders. Grants the board authority to issue cease and desist orders. Requires the order to include the bases for issuance of the order and a notice of hearing rights. Establishes time frames for hearings, issuance of the ALJ report, and final action by the board. Provides that if no hearing is requested with 30 days of service of the order, the order becomes permanent. Provides that a cease and desist order remains in effect until modified or vacated by the board.

Subd. 1b. Enforcement of cease and desist orders. Provides that the allegations in the cease and desist order are considered conclusively established for purposes of enforcement of the order. Allows the person against whom an order has been issued to seek an injunction to suspend enforcement of the order.

Strikes subdivisions 3 to 5 dealing with disciplinary actions. Provisions of these subdivisions are contained in section 3 of this bill.

Effective date. Makes subdivisions 1a and 1b effective August 1, 2014, for violations occurring on or after that date.

Disciplinary action. Creates § 151.071.

Subd. 1. Forms of disciplinary action. Allows the board to impose a range of disciplinary action when a licensee, registrant, or applicant has engaged in prohibited conduct under subdivision 2. These actions include denial of a license, refusal to renew, revocation or suspension, or imposition of limitations or conditions on the license.

Subd. 2. Grounds for disciplinary action. Lists prohibited conduct. Included in the list are actions such as obtaining a license by fraud, conviction of a felony related to the practice of the profession, disciplinary action by another state or licensing authority, engaging in unethical conduct, fraudulent billing practices, and termination from the Health Professional Services Program for reasons other than satisfactory completion of the program.

Subd. 3. Automatic suspension. Paragraph (a) instructs the board to automatically suspend a license if a court appoints a guardian for a licensee or the licensee is civilly committed.

Paragraph (b) allows the board to automatically suspend the license of a licensee when the board receives notice that a judgment has been entered against the licensee for, or the licensee has entered a plea of guilty to, a felony related to the practice of pharmacy.

Paragraph (c) allows the board to suspend a facility license or registration when the owner of the facility is subject to a judgment of, or a plea of guilty to, a felony related to the operation of the facility.

Paragraphs (d) and (e) allow individuals whose license or registration have been suspended under paragraphs (a) to (c) to have their license or registration reinstated by demonstrating clear and convincing evidence of rehabilitation. Allows the board to impose restrictions, conditions, or limitations upon reinstatement of the license or registration.

Paragraph (f) allows the board to suspend the license or registration of a regulated individual when the individual fails to maintain a current name and address with the board while a disciplinary investigation or action is pending.

Paragraph (g) allows the board to suspend the license or registration of a regulated facility when the owner fails to maintain a current name and address with the board

while a disciplinary investigation or action is pending.

Paragraph (h) and (j) require regulated individuals and owners of regulated facilities to maintain a current name and address with the board.

Subd. 4. Effective dates. Provides that any action taken by the board against a license or registration shall be in effect pending appeal.

Subd. 5. Conditions on reissued license. Allows the board to restore a license or registration, but as a condition the board may impose disciplinary or corrective action.

Subd. 6. Temporary suspension of license for pharmacists. Allows the board, without a hearing, to temporarily suspend a pharmacist's license if the board finds the pharmacist has violated a statute or rule the board is empowered to enforce and continued practice by the pharmacist would create a serious risk of harm to the public. Requires the board to schedule a hearing on the matter to be held no later than 30 days after the issuance of the suspension order.

Subd. 7. Temporary suspension of license for pharmacist interns, pharmacy technicians, and controlled substance researchers. Allows the board, without a hearing, to temporarily suspend the registration of a pharmacist intern, pharmacy technician, or controlled substance researcher if the board finds the registrant has violated a statute or rule the board is empowered to enforce and continued practice would create a serious risk of harm to the public. Requires the board to schedule a hearing on the matter to be held no later than 30 days after the issuance of the suspension order.

Subd. 8. Temporary suspension of license for pharmacies, drug wholesalers, drug manufacturers, medical gas manufacturers and medical gas distributors. Allows the board, without a hearing, to temporarily suspend the license or registration of a listed facility if the board finds the licensee or registrant has violated a statute or rule the board is empowered to enforce and continued operation of the facility would create a serious risk of harm to the public. Requires the board to schedule a hearing on the matter to be held no later than 30 days after the issuance of the suspension order.

Subd. 9. Evidence. Allows a copy of a judgment or proceeding under seal of the court administrator or of the administrative agency entering the judgment to be admissible as evidence in certain proceedings.

Subd. 10. Mental or physical examination; access to records. Allows the board to require a regulated person to undergo a mental or physical examination when the board has probable cause to believe the person is unable to practice by reason of illness, substance use, or mental illness, and records are related to complaints. Allows the board to have access to a person's medical records under limited circumstances.

Subd. 11. Tax clearance certificate. Bars the board from issuing or renewing a license or registration if the commissioner of revenue notifies the board and the regulated person that the regulated person owes the state \$500 or more in delinquent taxes. Allows the board to issue or renew the license or registration when the commissioner of revenue issues a tax clearance certificate.

Allows the applicant or regulated person to request a contested case hearing.

Requires applicants and regulated persons to include their Social Security number and Minnesota business identification number on all license applications.

Subd. 12. Limitation. Requires the board to commence proceedings against a regulated person or facility within seven years of the commission of the offense,

except for alleged violations of knowingly providing false or misleading information directly related to the care of a patient.

Reporting obligations. Creates § 151.072.

Subd. 1. Permission to report. Allows any person who has knowledge of conduct that may be grounds for disciplinary action to make a report to the board.

Subd. 2. Pharmacies. Requires pharmacies to report to the board any disciplinary action taken against a pharmacist, pharmacist intern, or pharmacy technician. Failure to report is a basis for disciplinary action against the facility.

Subd. 3. Licensees and registrants of the board. Requires regulated persons to report to the board personal knowledge of any conduct by another regulated person that may be grounds for disciplinary action. Failure to report is a basis for disciplinary action.

Subd. 4. Self-reporting. Requires regulated individuals to report any personal action that would require a report to be filed pursuant to subdivisions 2 to 4.

Subd. 5. Deadlines; forms. Requires reports to be submitted within 30 days of the reportable event. Permits the boards to provide forms for the submission of reports.

Subd. 6. Subpoenas. Allows the board to issue subpoenas for records required by subdivisions 2 to 5 or any related documents.

Immunity. Creates § 151.073.

Subd. 1. Reporting. Provides immunity from civil or criminal liability for any person, health care facility, business, or organization that makes a good faith report to the board alleging violations of this chapter. Classifies reports as investigative data.

Subd. 2. Investigation. Provides immunity from civil liability for any board member, board employee, or person who, within the scope of their duties and when acting in good faith, is participating or testifying regarding violations of this chapter.

Individuals who maintain records or make reports regarding adverse health care events are immune from criminal and civil liability.

Licensee or registrant cooperation. Creates § 151.074.

Requires anyone regulated by the board who is the subject of an investigation to cooperate fully with the board's investigation.

Disciplinary record on judicial review. Creates § 151.075.

Requires the court to seal the administrative record, except for the board's final decision.

Records of prescriptions. Amends § 151.211.

Subd. 1. Retention of prescription drug orders. Requires prescription drug orders to be retained at the location from which the drug was dispensed for at least two years.

Subd. 2. Refill requirements. Allows drug orders to be refilled with the consent of the prescriber and in accordance with laws and rules. Requires the date of refill to be

noted and initialed by the pharmacist, intern or practitioner who refills the prescription.

Compounding. Creates § 151.251.

Subd. 1. Exemption from manufacturing licensure requirements. Provides that a pharmacist in a pharmacy or a practitioner who are engaged in extemporaneous or anticipatory compounding or compounding not done pursuant to a prescription order are exempt from manufacturing license requirements.

Subd. 2. Compounded drug. Allows a pharmacist or practitioner to compound a drug product under specified conditions:

- ▶ the drug product must be compounded from bulk drug substances that meet listed requirements;
- ▶ ingredients, other than bulk drug substance, must comply with specified standards;
- ▶ the drug products do not appear on the federal DHHS list of drug products withdrawn or removed from the market;
- ▶ the drug products are not essentially copies of commercially available drug products; and
- ▶ the drug product has not been identified as one that presents demonstrable difficulties for compounding such that there is an adverse effect on the safety or effectiveness of the drug product.

Subd. 3. Exception. Provides that this section does not apply to compounded PET drugs or radiopharmaceuticals.

Outsourcing facility. Amends § 151.252, by adding subd. 1a.

Requires any person seeking to act as an outsourcing facility to apply and obtain a license from the board and pay the applicable manufacturer licensing fee. Requires the facility to provide the board with proof that the outsourcing facility is registered with the FDA and in compliance with all laws and rules. Requires facilities physically located in other states to be licensed or registered in that state. Requires a separate license for each outsourcing facility. Requires the facility to pass an inspection conducted by a representative of the board.

Exceptions. Amends § 151.26.

States that the exceptions provided in this section do not apply to any compound or substance that is not approved for human consumption by the FDA or by Minnesota law that induces an effect similar to that of a Schedule I or II controlled substance, regardless of whether the substance is marketed for human consumption.

After January 1, 1983. Amends § 151.361, subd. 2.

Strikes obsolete language related to drugs purchased prior to January 1, 1983, for resale.

Legend drugs, who may prescribe, possess. Amends § 151.37.

Makes technical changes to reflect updated definitions in this chapter. Modifies subdivision 4 to add that a pharmacy may compound drugs for research studies as allowed in this subdivision in compliance with specified standards. Adds the following subdivisions:

Subd. 10a. Emergency use authorizations. Adds subdivision 10a. Allows entities specifically tasked in a public health response plan to perform critical functions to purchase, possess, and use legend drugs.

Subd. 11. Exclusion for health care educational programs. Rewrites subdivision 11. Allows accredited public and private postsecondary schools to possess legend drugs that are not controlled substances when the school is preparing students for employment in the health care field and the drugs are used in the course of instruction.

Definitions. Amends § 151.44.

Strikes the definition of “manufacturer” and substitutes a cross-reference the term as it is defined in section 15.01, subd. 14b.

Definitions. Amends § 151.58, subd. 2.

Strikes “community behavioral health hospital” from the definition of a health care facility.

Authorization. Amends § 151.58, subd. 3.

Clarifies that a pharmacy filling prescriptions for patients in a health care facility must have its the policies and procedures approved by the board.

Operation of automated drug distribution systems. Amends § 151.58, subd. 5.

Clarifies the role of a pharmacist employed at a central services pharmacy in the operation of an automated drug distribution system.

Other legislation that will (or in some cases may) have an impact on the Board

The Minnesota Pharmacists Association and other groups worked on legislation that will have an impact on the business relationships and contracts between pharmacies and pharmacy benefit managers. New sections were created in Chapter 151. The following is a description of this new language taken from a House of Representatives Research summary:

"Maximum allowable cost pricing. Adds § 151.71. Regulates contracts between pharmacy benefit managers (PBMs) and pharmacies related to the use of maximum allowable cost pricing.

Subd. 1. Definitions. Defines terms.

Subd. 2. Pharmacy benefit manager contracts with pharmacies; maximum allowable cost pricing. (a) Requires contracts between PBMs and pharmacies to give pharmacies the right to obtain from the PBM a current list of the sources used to determine maximum allowable cost pricing. Requires the PBM to update the list at

least every seven business days and to provide a means by which pharmacies may review current prices. Also requires the PBM to remove products from maximum allowable cost pricing, to be consistent with changes in the marketplace.

(b) In order to place a drug on the maximum allowable cost list, requires the PBM to ensure that the drug is generally available for purchase by pharmacies and is not obsolete.

(c) Requires contracts to include a process to appeal, investigate, and resolve disputes over maximum allowable cost pricing, and specifies criteria.

(d) Requires the PBM to adjust the maximum allowable price within one business day, if an appeal is upheld.

Provides a January 1, 2015 effective date."

Changes were made to sections of the statutes that relate to use of ***complementary and alternative health care practices*** by licensed health care practitioners. While not common, some pharmacists have been involved in providing complementary and alternative health care practices such as herbology and homeopathy. The following is a description of the new language taken from a House of Representatives Research Summary:

"Complementary and alternative health care practices by licensed or registered health care practitioners. Creates § 146A.065. Paragraph (a) provides that a health care practitioner using complementary and alternative health care practices while practicing under their license or registration is subject to regulation by their professional licensing board.

Paragraph (b) provides that a regulated health care practitioner shall not be subject to disciplinary action solely for utilizing complementary and alternative health care practices, or for referring a patient to a complementary and alternative health care practitioner.

Paragraph (c) requires regulated health care practitioner to provide a written copy of the complementary and alternative health care client bill of rights.

Paragraph (d) clarifies that nothing in this section prohibits or restricts a regulating board or the commissioner of health from imposing disciplinary action for conduct that violates the regulated professional's practice act."

The legislature made ***changes to Chapter 214*** that will have an impact on all health licensing boards. Those changes concern temporary suspensions, board member per diem payments and the Health Professionals Services Program (HPSP). The following is a description of the changes taken from a House of Representatives Research Summary:

- **"Temporary license suspension; imminent risk of harm.** Creates § 214.077. Paragraph (a) requires health-related licensing boards, upon receipt of a complaint, to temporarily suspend the credential of regulated person when the board has probable cause to believe that continued practice by the regulated person presents an imminent risk of harm.

Paragraph (b) provides that the suspension shall remain in effect until the licensing board or commissioner completes an investigation and issues a final order after a hearing.

Paragraph (c) requires the board or the commissioner to schedule a hearing when it issues the suspension notice. Requires that the regulated person have at least ten days' notice of any hearing; requires the hearing to be scheduled no later than 30 days after issuance of the suspension order.

Paragraph (d) provides that the temporary suspension shall be lifted if a board has not completed its investigation or issued its final order within 30 days, unless the regulated person has requested a delay in the proceedings. In this case the suspension shall remain in effect.

Provides that this section is effective July 1, 2014

- **Compensation.** Amends § 214.09, subd. 3. Increases compensation for health-related licensing board members from \$55 per day to \$75 per day. Compensation for nonhealth-related licensing boards remains the same.
- **Receipt of complaint.** Amends § 214.103, subd. 2. Allows an executive director to authorize a field investigation to clarify the nature of the complaint and the facts that led to the making of the complaint.

Provides that this section is effective July 1, 2014.

- **Referral to other agencies.** Amends § 214.103, subd. 3. Requires government agencies to coordinate and conduct joint investigations into complaints that involve more than one governmental agency.

Provides that this section is effective July 1, 2014

- **Health professionals services program.** Amends § 214.12, by adding subd. 5. Requires the health-related licensing boards to promote the health professionals services program.

Provides that this section is effective July 1, 2014.

- **Program required.** Amends § 214.29. Requires each health board, including the EMSRB, to contract with the health professionals services program for a diversion program for regulated professionals who are unable to practice safely due to illness, use of alcohol, drugs, chemicals, or as a result of any mental, physical, or psychological condition.

Provides that this section is effective July 1, 2014, and sunsets on July 1, 2015.

- **Authority.** Amends § 214.31. Instructs the HPSP to contract with the health-related licensing boards to conduct the diversion program.

Provides that this section is effective July 1, 2014, and sunsets on July 1, 2015.

- **Duties of a participating board.** Amends § 214.32, subd. 6. Requires health-related licensing boards upon receipt of notice that a regulated person has been discharged from the HPSP due to noncompliance based on allegations the regulated person has engaged in conduct that might cause risk to the public to temporarily suspend the credential of regulated person when the board or commissioner has probable cause to believe that continued practice by the regulated person presents an imminent risk of harm. Requires the board to schedule a hearing when it issues the suspension notice. Requires that the regulated person have at least 10 days notice of any hearing; requires the hearing to be scheduled no later than 30 days after issuance of the suspension order. Provides that if the board has not completed its investigation within 30 days then the suspension shall be lifted unless the regulated person has requested the delay in which case the suspension remains in effect.
- **Program manager.** Amends § 214.33, subd. 3. In addition to other required reports to the boards, the program manager must report to the appropriate board when an HPSP participant has caused identifiable patient harm, substituted or adulterated medications; written a prescription in the name of a person or veterinary patient for personal use, alters a prescription, unlawfully uses a controlled substance or mood-altering substance while providing patient care, or should be monitored by the provisions of sections 214.17 to 214.25.

Provides that this section is effective July 1, 2014, and applies to violations that occur after that date.

- **Employer mandatory reporting.** Amends § 214.33, by adding subd. 5. Requires employers of persons regulated by a health-related licensing board to report to the licensing board that the regulated person has diverted narcotics or other controlled substances.

Lists the exceptions to the reporting requirement

- **Grounds for disciplinary action.** Creates § 214.355. Requires the boards to consider it grounds for disciplinary action with a regulated person violates the terms of the HPSP participation agreement or leaves the program without fulfilling the terms for successful program completion.

Provides that this section is effective July 1, 2014

APPENDIX C

*Minnesota Session Laws, 2014, Chapter 291 - provisions sponsored by the Board of Pharmacy or having an impact on the Board. (Sections in **blue** were not proposed by the Board).*

Article 2 - Provision of Health Services

Sec. 2. [151.71] MAXIMUM ALLOWABLE COST PRICING.

Subdivision 1. Definition. (a) For purposes of this section, the following definitions apply.

(b) "Health plan company" has the meaning provided in section 62Q.01, subdivision 4.

(c) "Pharmacy benefit manager" means an entity doing business in this state that contracts to administer or manage prescription drug benefits on behalf of any health plan company that provides prescription drug benefits to residents of this state.

Subd. 2. Pharmacy benefit manager contracts with pharmacies; maximum allowable cost pricing. (a) In each contract between a pharmacy benefit manager and a pharmacy, the pharmacy shall be given the right to obtain from the pharmacy benefit manager a current list of the sources used to determine maximum allowable cost pricing. The pharmacy benefit manager shall update the pricing information at least every seven business days and provide a means by which contracted pharmacies may promptly review current prices in an electronic, print, or telephonic format within one business day at no cost to the pharmacy. A pharmacy benefit manager shall maintain a procedure to eliminate products from the list of drugs subject to maximum allowable cost pricing in a timely manner in order to remain consistent with changes in the marketplace.

(b) In order to place a prescription drug on a maximum allowable cost list, a pharmacy benefit manager shall ensure that the drug is generally available for purchase by pharmacies in this state from a national or regional wholesaler and is not obsolete.

(c) Each contract between a pharmacy benefit manager and a pharmacy must include a process to appeal, investigate, and resolve disputes regarding maximum allowable cost pricing that includes:

(1) a 15-business day limit on the right to appeal following the initial claim;

(2) a requirement that the appeal be investigated and resolved within seven business days after the appeal is received; and

(3) a requirement that a pharmacy benefit manager provide a reason for any appeal denial and identify the national drug code of a drug that may be purchased by the pharmacy at a price at or below the maximum allowable cost price as determined by the pharmacy benefit manager.

(d) If an appeal is upheld, the pharmacy benefit manager shall make an adjustment to the maximum allowable cost price no later than one business day after the date of determination. The pharmacy benefit manager shall make the price adjustment applicable to all similarly situated network pharmacy providers as defined by the plan sponsor.

EFFECTIVE DATE. This section is effective January 1, 2015.

Sec. 3. Minnesota Statutes 2012, section 152.126, as amended by Laws 2013, chapter

113, article 3, section 3, is amended to read:

152.126 CONTROLLED SUBSTANCES PRESCRIPTION ELECTRONIC REPORTING SYSTEM PRESCRIPTION MONITORING PROGRAM.

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

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

~~(b)~~ (c) "Controlled substances" means those substances listed in section 152.02, subdivisions 3 to ~~5~~ 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 tramadol and butalbital.

~~(c)~~ (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.

~~(d)~~ (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.

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

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

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 Electronic Reporting Monitoring Program Advisory Committee Task Force.** (a) The board ~~shall convene~~ shall appoint an advisory committee. ~~The committee must include~~ 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 chemical dependency specialists;
- (5) a professional pharmacy association;
- (6) a professional nursing association;
- (7) a professional dental association;
- (8) a consumer privacy or security advocate; and
- (9) a consumer or patient rights organization; and

(10) an association of medical examiners and coroners.

(b) The advisory ~~committee~~ task force shall advise the board on the development and operation of the electronic reporting system 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; ~~and~~
- (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 section 15.059, subdivision 5, 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, ~~subject to the notice required under paragraph (d):~~

- (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 licensed skilled nursing or intermediate care facilities;~~
- ~~(2) individuals receiving assisted living services under chapter 144G or through a medical assistance home and community-based waiver;~~
- ~~(3) individuals receiving medication intravenously;~~
- ~~(4) individuals receiving hospice and other palliative or end-of-life care; and~~
- ~~(5) individuals receiving services from a home care provider regulated under chapter 144A.~~

(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 not submit data under this subdivision unless provide to the patient for whom the prescription was written a conspicuous notice of the reporting requirements of this section is given to the patient for whom the prescription was written 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 or substantiate a disciplinary action against a prescriber.

(d) Data reported under subdivision 4 shall be ~~retained by the board in the database for a 12-month period, and shall be removed from the database no later than 12 months from the last day of the month during which the data was received.~~ 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. Data retained beyond 24 months must be de-identified.

(e) The board shall not retain data reported under subdivision 4 for a period longer than four years 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; or

(iii) providing other medical treatment for which access to the data may be necessary 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 if the patient has consented to access to the submitted data;

~~(3)~~ (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;

~~(4)~~ (5) personnel of the board specifically assigned to conduct a bona fide investigation of a specific licensee;

~~(5)~~ (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;

~~(6)~~ (7) authorized personnel of a vendor under contract with the ~~board~~ state of Minnesota who are engaged in the design, implementation, operation, and maintenance of the ~~electronic reporting system~~ 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);

~~(7)~~ (8) federal, state, and local law enforcement authorities acting pursuant to a valid search warrant;

~~(8)~~ (9) personnel of the ~~medical assistance program~~ 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 physician provider, a single outpatient pharmacy, ~~or~~ and a single hospital; ~~and~~

~~(9)~~ (10) personnel of the Department of Human Services assigned to access the data pursuant to paragraph (h); and

(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.

For purposes of clause ~~(3)~~ (4), access by an individual includes persons in the definition of an individual under section 13.02.

(c) Any A permissible user identified in paragraph (b), ~~who~~ clauses (1), (2), (3), (6), (7), (9), and (10) 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.

(d) The board shall not release data submitted under ~~this section~~ subdivision 4 unless it is provided with evidence, satisfactory to the board, that the person requesting the information is entitled to receive the data.

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

~~(f)~~ (e) 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.

~~(g)~~ (f) 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.

(g) 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. The board shall report to the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over health and human services policy and finance on the interstate prescription monitoring program by January 5, 2016.

(h) 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, part 2.34, item (c), prior to implementing this paragraph.

(i) 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. The board shall report to the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over health and human services policy and finance on the criteria established under this paragraph and the review process by January 5, 2016. This paragraph expires August 1, 2016.

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.

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

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

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 ~~electronic reporting system~~ 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 ~~electronic reporting system~~ 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.

Sec. 4. **STUDY REQUIRED; PRESCRIPTION MONITORING PROGRAM DATABASE.**

(a) The Board of Pharmacy, in collaboration with the Prescription Monitoring Program Advisory Task Force, shall study the program database and report to the chairs and ranking minority members of the senate health and human services policy and finance division and the house of representatives health and human services policy and finance committees by December 15, 2014, with recommendations on: (1) requiring the use of the prescription monitoring by prescribers when prescribing or considering prescribing, and pharmacists when dispensing or considering dispensing, a controlled substance as defined in Minnesota Statutes, section 152.126, subdivision 1, paragraph (c); (2) allowing for the use of the prescription monitoring program database to identify potentially inappropriate prescribing of controlled substances; and (3) encouraging access to appropriate treatment for prescription drug abuse through the prescription monitoring program.

(b) The Board of Pharmacy, in collaboration with the prescription monitoring program advisory task force, shall conduct a study designed to assess the impact of the prescription monitoring program on the level of doctor-shopping activities and report to the chairs and ranking minority members of the senate and house of representatives committees and divisions with jurisdiction on health and human services policy and finance by December 15, 2016.

Article 4 - Health-Related Licensing Boards

Section 1. Minnesota Statutes 2012, section 146A.01, subdivision 6, is amended to read:

Subd. 6. **Unlicensed complementary and alternative health care practitioner.** (a) "Unlicensed complementary and alternative health care practitioner" means a person who:

(1) either:

(i) is not licensed or registered by a health-related licensing board or the commissioner of health; or

(ii) is licensed or registered by the commissioner of health or a health-related licensing board other than the Board of Medical Practice, the Board of Dentistry, the Board of Chiropractic Examiners, or the Board of Podiatric Medicine, but does not hold oneself out to the public as being licensed or registered by the commissioner or a health-

related licensing board when engaging in complementary and alternative health care;
(2) has not had a license or registration issued by a health-related licensing board or the commissioner of health revoked or has not been disciplined in any manner at any time in the past, unless the right to engage in complementary and alternative health care practices has been established by order of the commissioner of health;
(3) is engaging in complementary and alternative health care practices; and
(4) is providing complementary and alternative health care services for remuneration or is holding oneself out to the public as a practitioner of complementary and alternative health care practices.

~~(b) A health care practitioner licensed or registered by the commissioner or a health-related licensing board, who engages in complementary and alternative health care while practicing under the practitioner's license or registration, shall be regulated by and be under the jurisdiction of the applicable health-related licensing board with regard to the complementary and alternative health care practices.~~

Sec. 2. **[146A.065] COMPLEMENTARY AND ALTERNATIVE HEALTH CARE PRACTICES BY LICENSED OR REGISTERED HEALTH CARE PRACTITIONERS.**

(a) A health care practitioner licensed or registered by the commissioner or a health-related licensing board, who engages in complementary and alternative health care while practicing under the practitioner's license or registration, shall be regulated by and be under the jurisdiction of the applicable health-related licensing board with regard to the complementary and alternative health care practices.

(b) A health care practitioner licensed or registered by the commissioner or a health-related licensing board shall not be subject to disciplinary action solely on the basis of utilizing complementary and alternative health care practices as defined in section 146A.01, subdivision 4, paragraph (a), as a component of a patient's treatment, or for referring a patient to a complementary and alternative health care practitioner as defined in section 146A.01, subdivision 6.

(c) A health care practitioner licensed or registered by the commissioner or a health-related licensing board who utilizes complementary and alternative health care practices must provide patients receiving these services with a written copy of the complementary and alternative health care client bill of rights pursuant to section 146A.11.

(d) Nothing in this section shall be construed to prohibit or restrict the commissioner or a health-related licensing board from imposing disciplinary action for conduct that violates provisions of the applicable licensed or registered health care practitioner's practice act.

Sec. 3. Minnesota Statutes 2013 Supplement, section 146A.11, subdivision 1, is amended to read:

Subdivision 1. **Scope.** (a) All unlicensed complementary and alternative health care practitioners shall provide to each complementary and alternative health care client prior to providing treatment a written copy of the complementary and alternative health care client bill of rights. A copy must also be posted in a prominent location in the office of the unlicensed complementary and alternative health care practitioner.

Reasonable accommodations shall be made for those clients who cannot read or who have communication disabilities and those who do not read or speak English. The complementary and alternative health care client bill of rights shall include the following:

(1) the name, complementary and alternative health care title, business address, and telephone number of the unlicensed complementary and alternative health care practitioner;

(2) the degrees, training, experience, or other qualifications of the practitioner regarding the complimentary and alternative health care being provided, followed by the following statement in bold print:

"THE STATE OF MINNESOTA HAS NOT ADOPTED ANY EDUCATIONAL AND TRAINING STANDARDS FOR UNLICENSED COMPLEMENTARY AND ALTERNATIVE HEALTH CARE PRACTITIONERS. THIS STATEMENT OF CREDENTIALS IS FOR INFORMATION PURPOSES ONLY.

Under Minnesota law, an unlicensed complementary and alternative health care practitioner may not provide a medical diagnosis or recommend discontinuance of medically prescribed treatments. If a client desires a diagnosis from a licensed physician, chiropractor, or acupuncture practitioner, or services from a physician, chiropractor, nurse, osteopath, physical therapist, dietitian, nutritionist, acupuncture practitioner, athletic trainer, or any other type of health care provider, the client may seek such services at any time.";

(3) the name, business address, and telephone number of the practitioner's supervisor, if any;

(4) notice that a complementary and alternative health care client has the right to file a complaint with the practitioner's supervisor, if any, and the procedure for filing complaints;

(5) the name, address, and telephone number of the office of unlicensed complementary and alternative health care practice and notice that a client may file complaints with the office;

(6) the practitioner's fees per unit of service, the practitioner's method of billing for such fees, the names of any insurance companies that have agreed to reimburse the practitioner, or health maintenance organizations with whom the practitioner contracts to provide service, whether the practitioner accepts Medicare, medical assistance, or general assistance medical care, and whether the practitioner is willing to accept partial payment, or to waive payment, and in what circumstances;

(7) a statement that the client has a right to reasonable notice of changes in services or charges;

(8) a brief summary, in plain language, of the theoretical approach used by the practitioner in providing services to clients;

(9) notice that the client has a right to complete and current information concerning the practitioner's assessment and recommended service that is to be provided, including the expected duration of the service to be provided;

(10) a statement that clients may expect courteous treatment and to be free from verbal, physical, or sexual abuse by the practitioner;

(11) a statement that client records and transactions with the practitioner are confidential, unless release of these records is authorized in writing by the client, or otherwise provided by law;

(12) a statement of the client's right to be allowed access to records and written information from records in accordance with sections 144.291 to 144.298;

(13) a statement that other services may be available in the community, including where information concerning services is available;

(14) a statement that the client has the right to choose freely among available practitioners and to change practitioners after services have begun, within the limits of health insurance, medical assistance, or other health programs;

(15) a statement that the client has a right to coordinated transfer when there will be a change in the provider of services;

(16) a statement that the client may refuse services or treatment, unless otherwise provided by law; and

(17) a statement that the client may assert the client's rights without retaliation.

(b) This section does not apply to an unlicensed complementary and alternative health care practitioner who is employed by or is a volunteer in a hospital or hospice who provides services to a client in a hospital or under an appropriate hospice plan of care. Patients receiving complementary and alternative health care services in an inpatient hospital or under an appropriate hospice plan of care shall have and be made aware of the right to file a complaint with the hospital or hospice provider through which the practitioner is employed or registered as a volunteer.

(c) This section does not apply to a health care practitioner licensed or registered by the commissioner of health or a health-related licensing board who utilizes complementary and alternative health care practices within the scope of practice of the health care practitioner's professional license.

Sec. 46. [214.077] TEMPORARY LICENSE SUSPENSION; IMMINENT RISK OF HARM.

(a) Notwithstanding any provision of a health-related professional practice act, when a health-related licensing board receives a complaint regarding a regulated person and has probable cause to believe continued practice by the regulated person presents an imminent risk of harm, the licensing board shall temporarily suspend the regulated person's professional license. The suspension shall take effect upon written notice to the regulated person and shall specify the reason for the suspension.

(b) The suspension shall remain in effect until the appropriate licensing board or the commissioner completes an investigation and issues a final order in the matter after a hearing.

(c) At the time it issues the suspension notice, the appropriate licensing board shall schedule a disciplinary hearing to be held before the licensing board or pursuant to the Administrative Procedure Act. The regulated person shall be provided with at least ten days' notice of any hearing held pursuant to this subdivision. The hearing shall be scheduled to begin no later than 30 days after issuance of the suspension order.

(d) If the board has not completed its investigation and issued a final order within 30 days, the temporary suspension shall be lifted, unless the regulated person requests a delay in the disciplinary proceedings for any reason, upon which the temporary suspension shall remain in place until the completion of the investigation.

EFFECTIVE DATE. This section is effective July 1, 2014.

Sec. 47. Minnesota Statutes 2012, section 214.09, subdivision 3, is amended to read:

Subd. 3. **Compensation.** (a) ~~Members of the boards may be compensated at the rate of \$55 a day spent on board activities, when authorized by the board, plus expenses in~~ Members of health-related licensing boards may be compensated at the rate of \$75 a day spent on board activities and members of nonhealth-related licensing boards may be compensated at the rate of \$55 a day spent on board activities when authorized by the board, plus expenses in the same manner and amount as authorized by the commissioner's plan adopted under section 43A.18, subdivision 2. Members who, as a result of time spent attending board meetings, incur child care expenses that would not otherwise have been incurred, may be reimbursed for those expenses upon board authorization.

(b) Members who are state employees or employees of the political subdivisions of the state must not receive the daily payment for activities that occur during working hours for which they are also compensated by the state or political subdivision. However, a state or political subdivision employee may receive the daily payment if the employee uses vacation time or compensatory time accumulated in accordance with a collective bargaining agreement or compensation plan for board activity. Members who are state employees or employees of the political subdivisions of the state may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source. Members who are state employees or employees of political subdivisions of the state may be reimbursed for child care expenses only for time spent on board activities that are outside their working hours.

(c) Each board must adopt internal standards prescribing what constitutes a day spent on board activities for purposes of making daily payments under this subdivision.

Sec. 48. Minnesota Statutes 2012, section 214.103, subdivision 2, is amended to read:

Subd. 2. **Receipt of complaint.** The boards shall receive and resolve complaints or other communications, whether oral or written, against regulated persons. Before resolving an oral complaint, the executive director or a board member designated by the board to review complaints shall require the complainant to state the complaint in writing or authorize transcribing the complaint. The executive director or the designated board member shall determine whether the complaint alleges or implies a violation of a statute or rule which the board is empowered to enforce. The executive director or the designated board member may consult with the designee of the attorney general as to a board's jurisdiction over a complaint. If the executive director or the designated board member determines that it is necessary, the executive director may seek additional information to determine whether the complaint is jurisdictional or to clarify the nature of the allegations by obtaining records or other written material, obtaining a handwriting sample from the regulated person, clarifying the alleged facts with the complainant, and requesting a written response from the subject of the complaint. The executive director may authorize a field investigation to clarify the nature of the allegations and the facts that led to the complaint.

EFFECTIVE DATE. This section is effective July 1, 2014.

Sec. 49. Minnesota Statutes 2012, section 214.103, subdivision 3, is amended to read:

Subd. 3. **Referral to other agencies.** The executive director shall forward to another governmental agency any complaints received by the board which do not relate to the board's jurisdiction but which relate to matters within the jurisdiction of another governmental agency. The agency shall advise the executive director of the disposition of the complaint. A complaint or other information received by another governmental agency relating to a statute or rule which a board is empowered to enforce must be forwarded to the executive director of the board to be processed in accordance with this section. Governmental agencies ~~may~~ shall coordinate and conduct joint investigations of complaints that involve more than one governmental agency.

EFFECTIVE DATE. This section is effective July 1, 2014.

Sec. 50. Minnesota Statutes 2012, section 214.12, is amended by adding a subdivision to read:

Subd. 5. **Health professionals services program.** The health-related licensing boards shall include information regarding the health professionals services program on their Web sites.

EFFECTIVE DATE. This section is effective July 1, 2014.

Sec. 51. Minnesota Statutes 2012, section 214.29, is amended to read:

214.29 PROGRAM REQUIRED.

Notwithstanding section 214.28, each health-related licensing board, including the Emergency Medical Services Regulatory Board under chapter 144E, shall ~~either conduct a contract with the health professionals service program under sections 214.31 to 214.37 or contract for a diversion program under section 214.28~~ for a diversion program for regulated professionals who are unable to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals, or any other materials, or as a result of any mental, physical, or psychological condition.

EFFECTIVE DATE. This section is effective July 1, 2014, and sunsets July 1, 2015.

Sec. 52. Minnesota Statutes 2012, section 214.31, is amended to read:

214.31 AUTHORITY.

Two or more of the health-related licensing boards listed in section 214.01, subdivision 2, ~~may jointly~~ Notwithstanding section 214.36, the health professionals services program shall contract with the health-related licensing boards to conduct a health professionals services program to protect the public from persons regulated by the boards who are unable to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals, or any other materials, or as a result of any mental, physical, or psychological condition. The program does not affect a board's authority to discipline violations of a board's practice act. For purposes of sections 214.31 to 214.37, the emergency medical services regulatory board shall be included in the definition of a health-related licensing board under chapter 144E.

EFFECTIVE DATE. This section is effective July 1, 2014, and sunsets July 1, 2015.

Sec. 53. Minnesota Statutes 2012, section 214.32, is amended by adding a subdivision to read:

Subd. 6. **Duties of a participating board.** Upon receiving a report from the program manager in accordance with section 214.33, subdivision 3, that a regulated person has been discharged from the program due to noncompliance based on allegations that the regulated person has engaged in conduct that might cause risk to the public, when the participating board has probable cause to believe continued practice by the regulated person presents an imminent risk of harm, the board shall temporarily suspend the regulated person's professional license until the completion of a disciplinary investigation. The board must complete the disciplinary investigation within 30 days of receipt of the report from the program. If the investigation is not completed by the board within 30 days, the temporary suspension shall be lifted, unless the regulated person requests a delay in the disciplinary proceedings for any reason, upon which the temporary suspension shall remain in place until the completion of the investigation.

Sec. 54. Minnesota Statutes 2012, section 214.33, subdivision 3, is amended to read:

Subd. 3. **Program manager.** (a) The program manager shall report to the appropriate participating board a regulated person who:

- (1) does not meet program admission criteria;
- (2) violates the terms of the program participation agreement;
- (3) leaves or is discharged from the program except upon fulfilling the terms for successful completion of the program as set forth in the participation agreement;
- (4) is subject to the provisions of sections 214.17 to 214.25;
- (5) causes identifiable patient harm;
- (6) unlawfully substitutes or adulterates medications;
- (7) writes a prescription or causes a prescription to be dispensed in the name of a person, other than the prescriber, or veterinary patient for the personal use of the prescriber;
- (8) alters a prescription without the knowledge of the prescriber for the purpose of obtaining a drug for personal use;
- (9) unlawfully uses a controlled or mood-altering substance or uses alcohol while providing patient care or during the period of time in which the regulated person may be contacted to provide patient care or is otherwise on duty, if current use is the reason for participation in the program or the use occurs while the regulated person is participating in the program; or

The program manager shall report to the appropriate participating board a regulated person who (10) is alleged to have committed violations of the person's practice act that are outside the authority of the health professionals services program as described in sections 214.31 to 214.37.

(b) The program manager shall inform any reporting person of the disposition of the person's report to the program.

EFFECTIVE DATE. This section is effective August 1, 2014, and applies to violations that occur after the effective date.

Sec. 55. Minnesota Statutes 2012, section 214.33, is amended by adding a subdivision to read:

Subd. 5. **Employer mandatory reporting.** (a) An employer of a person regulated

by a health-related licensing board, and a health care institution or other organization where the regulated person is engaged in providing services, must report to the appropriate licensing board that a regulated person has diverted narcotics or other controlled substances in violation of state or federal narcotics or controlled substance law if:

(1) the employer, health care institution, or organization making the report has knowledge of the diversion; and

(2) the regulated person has diverted narcotics or other controlled substances from the reporting employer, health care institution, or organization, or at the reporting institution or organization.

(b) The requirement to report under this subdivision does not apply if:

(1) the regulated person is self-employed;

(2) the knowledge was obtained in the course of a professional-patient relationship and the regulated person is the patient; or

(3) knowledge of the diversion first becomes known to the employer, health care institution, or other organization, either from (i) an individual who is serving as a work site monitor approved by the health professional services program for the regulated person who has self-reported to the health professional services program, and who has returned to work pursuant to a health professional services program participation agreement and monitoring plan; or (ii) the regulated person who has self-reported to the health professional services program and who has returned to work pursuant to the health professional services program participation agreement and monitoring plan.

EFFECTIVE DATE. This section is effective July 1, 2014.

Sec. 56. **[214.355] GROUNDS FOR DISCIPLINARY ACTION.**

Each health-related licensing board, including the Emergency Medical Services Regulatory Board under chapter 144E, shall consider it grounds for disciplinary action if a regulated person violates the terms of the health professionals services program participation agreement or leaves the program except upon fulfilling the terms for successful completion of the program as set forth in the participation agreement.

EFFECTIVE DATE. This section is effective July 1, 2014.

ARTICLE 5

BOARD OF PHARMACY

Section 1. Minnesota Statutes 2012, section 151.01, is amended to read:

151.01 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. **Pharmacy.** "Pharmacy" means ~~an established~~ a place of business in which ~~prescriptions, prescription drugs, medicines, chemicals, and poisons~~ are prepared, compounded, ~~or dispensed, vended, or sold to or for the use of patients by or under the supervision of a pharmacist~~ and from which related clinical pharmacy services are delivered.

Subd. 2a. **Limited service pharmacy.** "Limited service pharmacy" means a pharmacy that has been issued a restricted license by the board to perform a limited range of the activities that constitute the practice of pharmacy.

Subd. 3. **Pharmacist.** ~~The term~~ "Pharmacist" means an individual with a currently valid license issued by the Board of Pharmacy to practice pharmacy.

Subd. 5. **Drug.** ~~The term~~ "Drug" means all medicinal substances and preparations recognized by the United States Pharmacopoeia and National Formulary, or any revision thereof, vaccines and biologicals, and all substances and preparations intended for external and internal use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals, and all substances and preparations, other than food, intended to affect the structure or any function of the bodies of humans or other animals. The term drug shall also mean any compound, substance, or derivative that is not approved for human consumption by the United States Food and Drug Administration or specifically permitted for human consumption under Minnesota law, and, when introduced into the body, induces an effect similar to that of a Schedule I or Schedule II controlled substance listed in section 152.02, subdivisions 2 and 3, or Minnesota Rules, parts 6800.4210 and 6800.4220, regardless of whether the substance is marketed for the purpose of human consumption.

Subd. 6. **Medicine.** ~~The term~~ "Medicine" means any remedial agent that has the property of curing, preventing, treating, or mitigating diseases, or that is used for that purpose.

Subd. 7. **Poisons.** ~~The term~~ "Poisons" means any substance ~~which that~~, when introduced into the system, directly or by absorption, produces violent, morbid, or fatal changes, or ~~which that~~ destroys living tissue with which it comes in contact.

Subd. 8. **Chemical.** ~~The term~~ "Chemical" means all medicinal or industrial substances, whether simple or compound, or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin.

Subd. 9. **Board or State Board of Pharmacy.** ~~The term~~ "Board" or "State Board of Pharmacy" means the Minnesota ~~State~~ Board of Pharmacy.

Subd. 10. **Director.** ~~The term~~ "Director" means the executive director of the Minnesota ~~State~~ Board of Pharmacy.

Subd. 11. **Person.** ~~The term~~ "Person" means an individual, firm, partnership, company, corporation, trustee, association, agency, or other public or private entity.

Subd. 12. **Wholesale.** ~~The term~~ "Wholesale" means and includes any sale for the purpose of resale.

Subd. 13. **Commercial purposes.** ~~The phrase~~ "Commercial purposes" means the ordinary purposes of trade, agriculture, industry, and commerce, exclusive of the practices of medicine and pharmacy, and other health care professions.

Subd. 14. **Manufacturing.** ~~The term~~ "Manufacturing" ~~except in the case of bulk compounding, prepackaging or extemporaneous compounding within a pharmacy,~~ means and includes the production, quality control and standardization by mechanical, physical, chemical, or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling or by any other process, of all drugs, medicines, chemicals, or poisons, without exception, for medicinal purposes: preparation, propagation, conversion, or processing of a drug, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis.

Manufacturing includes the packaging or repackaging of a drug, or the labeling or relabeling of the container of a drug, for resale by pharmacies, practitioners, or other persons. Manufacturing does not include the prepackaging, extemporaneous compounding, or anticipatory compounding of a drug within a licensed pharmacy or by a practitioner, nor the labeling of a container within a pharmacy or by a practitioner for the purpose of dispensing a drug to a patient pursuant to a valid prescription.

Subd. 14a. **Manufacturer.** "Manufacturer" means any person engaged in manufacturing.

Subd. 14b. **Outsourcing facility.** "Outsourcing facility" means a facility that is registered by the United States Food and Drug Administration pursuant to United States Code, title 21, section 353b.

Subd. 15. **Pharmacist intern.** ~~The term~~ "Pharmacist intern" means (1) a natural person satisfactorily progressing toward the degree in pharmacy required for licensure, or (2) a graduate of the University of Minnesota College of Pharmacy, or other pharmacy college approved by the board, who is registered by the State Board of Pharmacy for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist, or (3) a qualified applicant awaiting examination for licensure.

Subd. 15a. **Pharmacy technician.** ~~The term~~ "Pharmacy technician" means a person not licensed as a pharmacist or a pharmacist intern, who assists the pharmacist in the preparation and dispensing of medications by performing computer entry of prescription data and other manipulative tasks. A pharmacy technician shall not perform tasks specifically reserved to a licensed pharmacist or requiring professional judgment.

Subd. 16. **Prescription drug order.** ~~The term~~ "Prescription drug order" means a ~~signed lawful written order, or an, oral, or electronic order reduced to writing, given by of~~ a practitioner licensed to prescribe drugs for patients in the course of the practitioner's practice, issued for an individual patient and containing the following: ~~the date of issue, name and address of the patient, name and quantity of the drug prescribed, directions for use, and the name and address of the prescriber.~~ for a drug for a specific patient. Prescription drug orders for controlled substances must be prepared in accordance with the provisions of section 152.11 and the federal Controlled Substances Act and the regulations promulgated thereunder.

Subd. 16a. **Prescription.** "Prescription" means a prescription drug order that is written or printed on paper, an oral order reduced to writing by a pharmacist, or an electronic order. To be valid, a prescription must be issued for an individual patient by a practitioner within the scope and usual course of the practitioner's practice, and must contain the date of issue, name and address of the patient, name and quantity of the drug prescribed, directions for use, the name and address of the practitioner, and a telephone number at which the practitioner can be reached. A prescription written or printed on paper that is given to the patient or an agent of the patient or that is transmitted by fax must contain the practitioner's manual signature. An electronic prescription must contain the practitioner's electronic signature.

Subd. 16b. **Chart order.** "Chart order" means a prescription drug order for a drug that is to be dispensed by a pharmacist, or by a pharmacist intern under the direct supervision of a pharmacist, and administered by an authorized person only during the patient's stay in a hospital or long-term care facility. The chart order shall contain the name of the patient, another patient identifier such as birth date or medical record

number, the drug ordered, and any directions that the practitioner may prescribe concerning strength, dosage, frequency, and route of administration. The manual or electronic signature of the practitioner must be affixed to the chart order at the time it is written or at a later date in the case of verbal chart orders.

Subd. 17. **Legend drug.** "Legend drug" means a drug ~~which~~ that is required by federal law to ~~bear the following statement, "Caution: Federal law prohibits dispensing without prescription."~~ be dispensed only pursuant to the prescription of a licensed practitioner.

Subd. 18. **Label.** "Label" means a display of written, printed, or graphic matter upon the immediate container of any drug or medicine; ~~and a requirement made by or under authority of Laws 1969, chapter 933 that~~ Any word, statement, or other information appearing required by or under the authority of this chapter to appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears appear on the outside container or wrapper, if any there be, of the retail package of such drug or medicine, or ~~is~~ be easily legible through the outside container or wrapper.

Subd. 19. **Package.** "Package" means any container or wrapping in which any drug or medicine is enclosed for use in the delivery or display of that article to retail purchasers, but does not include:

- (a) shipping containers or wrappings used solely for the transportation of any such article in bulk or in quantity to manufacturers, packers, processors, or wholesale or retail distributors;
- (b) shipping containers or outer wrappings used by retailers to ship or deliver any such article to retail customers if such containers and wrappings bear no printed matter pertaining to any particular drug or medicine.

Subd. 20. **Labeling.** "Labeling" means all labels and other written, printed, or graphic matter (a) upon a drug or medicine or any of its containers or wrappers, or (b) accompanying such article.

Subd. 21. **Federal act.** "Federal act" means the Federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 301, et seq., as amended.

Subd. 22. **Pharmacist in charge.** "Pharmacist in charge" means a duly licensed pharmacist in the state of Minnesota who has been designated in accordance with the rules of the ~~State~~ Board of Pharmacy to assume professional responsibility for the operation of the pharmacy in compliance with the requirements and duties as established by the board in its rules.

Subd. 23. **Practitioner.** "Practitioner" means a licensed doctor of medicine, licensed doctor of osteopathy duly licensed to practice medicine, licensed doctor of dentistry, licensed doctor of optometry, licensed podiatrist, or licensed veterinarian. For purposes of sections 151.15, subdivision 4; 151.252, subdivision 3; 151.37, subdivision 2, paragraphs (b), (e), and (f); and 151.461, "practitioner" also means a physician assistant authorized to prescribe, dispense, and administer under chapter 147A, or an advanced practice nurse authorized to prescribe, dispense, and administer under section 148.235. For purposes of sections 151.15, subdivision 4; 151.252, subdivision 3; 151.37, subdivision 2, paragraph (b); and 151.461, "practitioner" also means a dental therapist authorized to dispense and administer under chapter 150A.

Subd. 24. **Brand name.** "Brand name" means the registered trademark name given

to a drug product by its manufacturer, labeler or distributor.

Subd. 25. **Generic name.** "Generic name" means the established name or official name of a drug or drug product.

Subd. 26. **Finished dosage form.** "Finished dosage form" means that form of a drug ~~which~~ that is or is intended to be dispensed or administered to the patient and requires no further manufacturing or processing other than packaging, reconstitution, or labeling.

Subd. 27. **Practice of pharmacy.** "Practice of pharmacy" means:

(1) interpretation and evaluation of prescription drug orders;

(2) compounding, labeling, and dispensing drugs and devices (except labeling by a manufacturer or packager of nonprescription drugs or commercially packaged legend drugs and devices);

(3) participation in clinical interpretations and monitoring of drug therapy for assurance of safe and effective use of drugs, including the performance of laboratory tests that are waived under the federal Clinical Laboratory Improvement Act of 1988, United States Code, title 42, section 263a et seq., provided that a pharmacist may interpret the results of laboratory tests but may modify drug therapy only pursuant to a protocol or collaborative practice agreement;

(4) participation in drug and therapeutic device selection; drug administration for first dosage and medical emergencies; drug regimen reviews; and drug or drug-related research;

(5) participation in administration of influenza vaccines to all eligible individuals ten years of age and older and all other vaccines to patients 18 years of age and older ~~under standing orders from a physician licensed under chapter 147 or by written protocol with a physician licensed under chapter 147, a physician assistant authorized to prescribe drugs under chapter 147A, or an advanced practice registered nurse authorized to prescribe drugs under section 148.235,~~ provided that:

(i) the protocol includes, at a minimum:

(A) the name, dose, and route of each vaccine that may be given;

(B) the patient population for whom the vaccine may be given;

(C) contraindications and precautions to the vaccine;

(D) the procedure for handling an adverse reaction;

(E) the name, signature, and address of the physician, physician assistant, or advanced practice registered nurse;

(F) a telephone number at which the physician, physician assistant, or advanced practice registered nurse can be contacted; and

(G) the date and time period for which the protocol is valid;

~~(i) (ii) the pharmacist is trained in~~ has successfully completed a program approved by the American Accreditation Council of Pharmaceutical for Pharmacy Education specifically for the administration of immunizations or graduated from a college of pharmacy in 2001 or thereafter a program approved by the board; and

~~(ii) (iii) the pharmacist reports the administration of the immunization to the patient's primary physician or clinic~~ or to the Minnesota Immunization Information Connection; and

(iv) the pharmacist complies with guidelines for vaccines and immunizations

established by the federal Advisory Committee on Immunization Practices, except that a

pharmacist does not need to comply with those portions of the guidelines that establish immunization schedules when administering a vaccine pursuant to a valid, patient-specific order issued by a physician licensed under chapter 147, a physician assistant authorized to prescribe drugs under chapter 147A, or an advanced practice nurse authorized to prescribe drugs under section 148.235, provided that the order is consistent with the United States Food and Drug Administration approved labeling of the vaccine;

(6) participation in the ~~practice of managing drug therapy and modifying initiation, management, modification, and discontinuation of drug therapy, according to section 151.21, subdivision 1,~~ according to a written protocol or collaborative practice agreement between the specific pharmacist: (i) one or more pharmacists and the individual dentist, optometrist, physician, podiatrist, or veterinarian who is responsible for the patient's care and authorized to independently prescribe drugs one or more dentists, optometrists, physicians, podiatrists, or veterinarians; or (ii) one or more pharmacists and one or more physician assistants authorized to prescribe, dispense, and administer under chapter 147A, or advanced practice nurses authorized to prescribe, dispense, and administer under section 148.235. Any ~~significant~~ changes in drug therapy made pursuant to a protocol or collaborative practice agreement must be ~~reported~~ documented by the pharmacist ~~to~~ in the patient's medical record or reported by the pharmacist to a practitioner responsible for the patient's care;

(7) participation in the storage of drugs and the maintenance of records;

(8) responsibility for participation in patient counseling on therapeutic values, content, hazards, and uses of drugs and devices; and

(9) offering or performing those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of a pharmacy.

Subd. 27a. **Protocol.** "Protocol" means:

(1) a specific written plan that describes the nature and scope of activities that a pharmacist may engage in when initiating, managing, modifying, or discontinuing drug therapy as allowed in subdivision 27, clause (6); or

(2) a specific written plan that authorizes a pharmacist to administer vaccines and that complies with subdivision 27, clause (5).

Subd. 27b. **Collaborative practice.** "Collaborative practice" means patient care activities, consistent with subdivision 27, engaged in by one or more pharmacists who have agreed to work in collaboration with one or more practitioners to initiate, manage, and modify drug therapy under specified conditions mutually agreed to by the pharmacists and practitioners.

Subd. 27c. **Collaborative practice agreement.** "Collaborative practice agreement" means a written and signed agreement between one or more pharmacists and one or more practitioners that allows the pharmacist or pharmacists to engage in collaborative practice.

Subd. 28. **Veterinary legend drug.** "Veterinary legend drug" means a drug that is required by federal law to bear the following statement: "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian." be dispensed only pursuant to the prescription of a licensed veterinarian.

Subd. 29. **Legend medical gas.** "Legend medical gas" means a liquid or gaseous substance used for medical purposes and that is required by federal law to bear the following statement: "Caution: Federal law prohibits dispensing without a prescription."

be dispensed only pursuant to the prescription of a licensed practitioner.

Subd. 30. **Dispense or dispensing.** "~~Dispense or dispensing~~" means the ~~preparation or delivery of a drug pursuant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the drug.~~ interpretation, evaluation, and processing of a prescription drug order and includes those processes specified by the board in rule that are necessary for the preparation and provision of a drug to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient.

Subd. 31. **Central service pharmacy.** "Central service pharmacy" means a pharmacy that may provide dispensing functions, drug utilization review, packaging, labeling, or delivery of a prescription product to another pharmacy for the purpose of filling a prescription.

Subd. 32. **Electronic signature.** "Electronic signature" means an electronic sound, symbol, or process attached to or associated with a record and executed or adopted by a person with the intent to sign the record.

Subd. 33. **Electronic transmission.** "Electronic transmission" means transmission of information in electronic form.

Subd. 34. **Health professional shortage area.** "Health professional shortage area" means an area designated as such by the federal Secretary of Health and Human Services, as provided under Code of Federal Regulations, title 42, part 5, and United States Code, title 42, section 254E.

Subd. 35. **Compounding.** "Compounding" means preparing, mixing, assembling, packaging, and labeling a drug for an identified individual patient as a result of a practitioner's prescription drug order. Compounding also includes anticipatory compounding, as defined in this section, and the preparation of drugs in which all bulk drug substances and components are nonprescription substances. Compounding does not include mixing or reconstituting a drug according to the product's labeling or to the manufacturer's directions. Compounding does not include the preparation of a drug for the purpose of, or incident to, research, teaching, or chemical analysis, provided that the drug is not prepared for dispensing or administration to patients. All compounding, regardless of the type of product, must be done pursuant to a prescription drug order unless otherwise permitted in this chapter or by the rules of the board. Compounding does not include a minor deviation from such directions with regard to radioactivity, volume, or stability, which is made by or under the supervision of a licensed nuclear pharmacist or a physician, and which is necessary in order to accommodate circumstances not contemplated in the manufacturer's instructions, such as the rate of radioactive decay or geographical distance from the patient.

Subd. 36. **Anticipatory compounding.** "Anticipatory compounding" means the preparation by a pharmacy of a supply of a compounded drug product that is sufficient to meet the short-term anticipated need of the pharmacy for the filling of prescription drug orders. In the case of practitioners only, anticipatory compounding means the preparation of a supply of a compounded drug product that is sufficient to meet the practitioner's short-term anticipated need for dispensing or administering the drug to patients treated by the practitioner. Anticipatory compounding is not the preparation of a compounded drug

product for wholesale distribution.

Subd. 37. **Extemporaneous compounding.** "Extemporaneous compounding" means the compounding of a drug product pursuant to a prescription drug order for a specific patient that is issued in advance of the compounding. Extemporaneous compounding is not the preparation of a compounded drug product for wholesale distribution.

Subd. 38. **Compounded positron emission tomography drug.** "Compounded positron emission tomography drug" means a drug that:
(1) exhibits spontaneous disintegration of unstable nuclei by the emission of positrons and is used for the purpose of providing dual photon positron emission tomographic diagnostic images;
(2) has been compounded by or on the order of a practitioner in accordance with the relevant parts of Minnesota Rules, chapters 4731 and 6800, for a patient or for research, teaching, or quality control; and
(3) includes any nonradioactive reagent, reagent kit, ingredient, nuclide generator, accelerator, target material, electronic synthesizer, or other apparatus or computer program to be used in the preparation of such a drug.

Sec. 2. Minnesota Statutes 2012, section 151.06, is amended to read:

151.06 POWERS AND DUTIES.

Subdivision 1. **Generally; rules.** (a) Powers and duties. The Board of Pharmacy shall have the power and it shall be its duty:

- (1) to regulate the practice of pharmacy;
- (2) to regulate the manufacture, wholesale, and retail sale of drugs within this state;
- (3) to regulate the identity, labeling, purity, and quality of all drugs and medicines dispensed in this state, using the United States Pharmacopeia and the National Formulary, or any revisions thereof, or standards adopted under the federal act as the standard;
- (4) to enter and inspect by its authorized representative any and all places where drugs, medicines, medical gases, or veterinary drugs or devices are sold, vended, given away, compounded, dispensed, manufactured, wholesaled, or held; it may secure samples or specimens of any drugs, medicines, medical gases, or veterinary drugs or devices after paying or offering to pay for such sample; it shall be entitled to inspect and make copies of any and all records of shipment, purchase, manufacture, quality control, and sale of these items provided, however, that such inspection shall not extend to financial data, sales data, or pricing data;
- (5) to examine and license as pharmacists all applicants whom it shall deem qualified to be such;
- (6) to license wholesale drug distributors;
- (7) to ~~deny, suspend, revoke, or refuse to renew~~ take disciplinary action against any registration or license required under this chapter, ~~to any applicant or registrant or licensee upon any of the following grounds: listed in section 151.071, and in accordance with the provisions of section 151.071;~~
 - ~~(i) fraud or deception in connection with the securing of such license or registration;~~
 - ~~(ii) in the case of a pharmacist, conviction in any court of a felony;~~
 - ~~(iii) in the case of a pharmacist, conviction in any court of an offense involving moral turpitude;~~

- ~~(iv) habitual indulgence in the use of narcotics, stimulants, or depressant drugs; or habitual indulgence in intoxicating liquors in a manner which could cause conduct endangering public health;~~
- ~~(v) unprofessional conduct or conduct endangering public health;~~
- ~~(vi) gross immorality;~~
- ~~(vii) employing, assisting, or enabling in any manner an unlicensed person to practice pharmacy;~~
- ~~(viii) conviction of theft of drugs, or the unauthorized use, possession, or sale thereof;~~
- ~~(ix) violation of any of the provisions of this chapter or any of the rules of the State Board of Pharmacy;~~
- ~~(x) in the case of a pharmacy license, operation of such pharmacy without a pharmacist present and on duty;~~
- ~~(xi) in the case of a pharmacist, physical or mental disability which could cause incompetency in the practice of pharmacy;~~
- ~~(xii) in the case of a pharmacist, the suspension or revocation of a license to practice pharmacy in another state; or~~
- ~~(xiii) in the case of a pharmacist, aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:~~
 - ~~(A) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;~~
 - ~~(B) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;~~
 - ~~(C) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5 ; or~~
 - ~~(D) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2;~~
- ~~(8) to employ necessary assistants and adopt rules for the conduct of its business;~~
- ~~(9) to register as pharmacy technicians all applicants who the board determines are qualified to carry out the duties of a pharmacy technician; and~~
- ~~(10) to perform such other duties and exercise such other powers as the provisions of the act may require; and~~
- (11) to enter and inspect any business to which it issues a license or registration.

~~(b) Temporary suspension. In addition to any other remedy provided by law, the board may, without a hearing, temporarily suspend a license for not more than 60 days if the board finds that a pharmacist has violated a statute or rule that the board is empowered to enforce and continued practice by the pharmacist would create an imminent risk of harm to others. The suspension shall take effect upon written notice to the pharmacist, specifying the statute or rule violated. At the time it issues the suspension notice, the board shall schedule a disciplinary hearing to be held under the Administrative Procedure Act. The pharmacist shall be provided with at least 20 days' notice of any hearing held under this subdivision.~~

~~(e)~~ (b) Rules. For the purposes aforesaid, it shall be the duty of the board to make and publish uniform rules not inconsistent herewith for carrying out and enforcing the provisions of this chapter. The board shall adopt rules regarding prospective drug utilization review and patient counseling by pharmacists. A pharmacist in the exercise of

the pharmacist's professional judgment, upon the presentation of a new prescription by a patient or the patient's caregiver or agent, shall perform the prospective drug utilization review required by rules issued under this subdivision.

~~(d)~~ (c) Substitution; rules. If the United States Food and Drug Administration (FDA) determines that the substitution of drugs used for the treatment of epilepsy or seizures poses a health risk to patients, the board shall adopt rules in accordance with accompanying FDA interchangeability standards regarding the use of substitution for these drugs. If the board adopts a rule regarding the substitution of drugs used for the treatment of epilepsy or seizures that conflicts with the substitution requirements of section 151.21, subdivision 3, the rule shall supersede the conflicting statute. If the rule proposed by the board would increase state costs for state public health care programs, the board shall report to the chairs and ranking minority members of the senate Health and Human Services Budget Division and the house of representatives Health Care and Human Services Finance Division the proposed rule and the increased cost associated with the proposed rule before the board may adopt the rule.

Subd. 1a. ~~Disciplinary action~~ **Cease and desist orders.** ~~It shall be grounds for disciplinary action by the Board of Pharmacy against the registration of the pharmacy if the Board of Pharmacy determines that any person with supervisory responsibilities at the pharmacy sets policies that prevent a licensed pharmacist from providing drug utilization review and patient counseling as required by rules adopted under subdivision 1. The Board of Pharmacy shall follow the requirements of chapter 14 in any disciplinary actions taken under this section.~~ (a) Whenever it appears to the board that a person has engaged in an act or practice constituting a violation of a law, rule, or other order related to the duties and responsibilities entrusted to the board, the board may issue and cause to be served upon the person an order requiring the person to cease and desist from violations.

(b) The cease and desist order must state the reasons for the issuance of the order and must give reasonable notice of the rights of the person to request a hearing before an administrative law judge. A hearing must be held not later than ten days after the request for the hearing is received by the board. After the completion of the hearing, the administrative law judge shall issue a report within ten days. Within 15 days after receiving the report of the administrative law judge, the board shall issue a further order vacating or making permanent the cease and desist order. The time periods provided in this provision may be waived by agreement of the executive director of the board and the person against whom the cease and desist order was issued. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person is in default, and the proceeding may be determined against that person upon consideration of the cease and desist order, the allegations of which may be considered to be true. Unless otherwise provided, all hearings must be conducted according to chapter 14. The board may adopt rules of procedure concerning all proceedings conducted under this subdivision.

(c) If no hearing is requested within 30 days of service of the order, the cease and desist order will become permanent.

(d) A cease and desist order issued under this subdivision remains in effect until it is modified or vacated by the board. The administrative proceeding provided by this subdivision, and subsequent appellate judicial review of that administrative proceeding,

constitutes the exclusive remedy for determining whether the board properly issued the cease and desist order and whether the cease and desist order should be vacated or made permanent.

Subd. 1b. **Enforcement of violations of cease and desist orders.** (a) Whenever the board under subdivision 1a seeks to enforce compliance with a cease and desist order that has been made permanent, the allegations of the cease and desist order are considered conclusively established for purposes of proceeding under subdivision 1a for permanent or temporary relief to enforce the cease and desist order. Whenever the board under subdivision 1a seeks to enforce compliance with a cease and desist order when a hearing or hearing request on the cease and desist order is pending, or the time has not yet expired to request a hearing on whether a cease and desist order should be vacated or made permanent, the allegations in the cease and desist order are considered conclusively established for the purposes of proceeding under subdivision 1a for temporary relief to enforce the cease and desist order.

(b) Notwithstanding this subdivision or subdivision 1a, the person against whom the cease and desist order is issued and who has requested a hearing under subdivision 1a may, within 15 days after service of the cease and desist order, bring an action in Ramsey County District Court for issuance of an injunction to suspend enforcement of the cease and desist order pending a final decision of the board under subdivision 1a to vacate or make permanent the cease and desist order. The court shall determine whether to issue such an injunction based on traditional principles of temporary relief.

Subd. 2. **Application.** In the case of a facility licensed or registered by the board, the provisions of subdivision 1 shall apply to an individual owner or sole proprietor and shall also apply to the following:

- (1) In the case of a partnership, each partner thereof;
- (2) In the case of an association, each member thereof;
- (3) In the case of a corporation, each officer or director thereof and each shareholder owning 30 percent or more of the voting stock of such corporation.

Subd. 3. ~~**Application of Administrative Procedure Act.** The board shall comply with the provisions of chapter 14, before it fails to issue, renew, suspends, or revokes any license or registration issued under this chapter.~~

Subd. 4. ~~**Reinstatement.** Any license or registration which has been suspended or revoked may be reinstated by the board provided the holder thereof shall pay all costs of the proceedings resulting in the suspension or revocation, and, in addition thereto, pay a fee set by the board.~~

Subd. 5. ~~**Costs; penalties.** The board may impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive a licensee or registrant of any economic advantage gained by reason of the violation, to discourage similar violations by the licensee or registrant or any other licensee or registrant, or to reimburse the board for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the Office of Administrative Hearings, legal and investigative services provided by the Office of the Attorney General, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members.~~

EFFECTIVE DATE. Subdivisions 1a and 1b are effective August 1, 2014, and

apply to violations occurring on or after that date.

Sec. 3. **[151.071] DISCIPLINARY ACTION.**

Subdivision 1. **Forms of disciplinary action.** When the board finds that a licensee, registrant, or applicant has engaged in conduct prohibited under subdivision 2, it may do one or more of the following:

(1) deny the issuance of a license or registration;

(2) refuse to renew a license or registration;

(3) revoke the license or registration;

(4) suspend the license or registration;

(5) impose limitations, conditions, or both on the license or registration, including but not limited to: the limitation of practice to designated settings; the limitation of the scope of practice within designated settings; the imposition of retraining or rehabilitation requirements; the requirement of practice under supervision; the requirement of participation in a diversion program such as that established pursuant to section 214.31 or the conditioning of continued practice on demonstration of knowledge or skills by appropriate examination or other review of skill and competence;

(6) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive a licensee or registrant of any economic advantage gained by reason of the violation, to discourage similar violations by the licensee or registrant or any other licensee or registrant, or to reimburse the board for the cost of the investigation and proceeding, including but not limited to, fees paid for services provided by the Office of Administrative Hearings, legal and investigative services provided by the Office of the Attorney General, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members; and

(7) reprimand the licensee or registrant.

Subd. 2. **Grounds for disciplinary action.** The following conduct is prohibited and is grounds for disciplinary action:

(1) failure to demonstrate the qualifications or satisfy the requirements for a license or registration contained in this chapter or the rules of the board. The burden of proof is on the applicant to demonstrate such qualifications or satisfaction of such requirements;

(2) obtaining a license by fraud or by misleading the board in any way during the application process or obtaining a license by cheating, or attempting to subvert the licensing examination process. Conduct that subverts or attempts to subvert the licensing examination process includes, but is not limited to: (i) conduct that violates the security of the examination materials, such as removing examination materials from the examination room or having unauthorized possession of any portion of a future, current, or previously administered licensing examination; (ii) conduct that violates the standard of test administration, such as communicating with another examinee during administration of the examination, copying another examinee's answers, permitting another examinee to copy one's answers, or possessing unauthorized materials; or (iii) impersonating an examinee or permitting an impersonator to take the examination on one's own behalf;

(3) for a pharmacist, pharmacy technician, pharmacist intern, applicant for a pharmacist or pharmacy license, or applicant for a pharmacy technician or pharmacist

intern registration, conviction of a felony reasonably related to the practice of pharmacy. Conviction as used in this subdivision includes a conviction of an offense that if committed in this state would be deemed a felony without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered thereon. The board may delay the issuance of a new license or registration if the applicant has been charged with a felony until the matter has been adjudicated;

(4) for a facility, other than a pharmacy, licensed or registered by the board, if an owner or applicant is convicted of a felony reasonably related to the operation of the facility. The board may delay the issuance of a new license or registration if the owner or applicant has been charged with a felony until the matter has been adjudicated;

(5) for a controlled substance researcher, conviction of a felony reasonably related to controlled substances or to the practice of the researcher's profession. The board may delay the issuance of a registration if the applicant has been charged with a felony until the matter has been adjudicated;

(6) disciplinary action taken by another state or by one of this state's health licensing agencies:

(i) revocation, suspension, restriction, limitation, or other disciplinary action against a license or registration in another state or jurisdiction, failure to report to the board that charges or allegations regarding the person's license or registration have been brought in another state or jurisdiction, or having been refused a license or registration by any other state or jurisdiction. The board may delay the issuance of a new license or registration if an investigation or disciplinary action is pending in another state or jurisdiction until the investigation or action has been dismissed or otherwise resolved; and

(ii) revocation, suspension, restriction, limitation, or other disciplinary action against a license or registration issued by another of this state's health licensing agencies, failure to report to the board that charges regarding the person's license or registration have been brought by another of this state's health licensing agencies, or having been refused a license or registration by another of this state's health licensing agencies. The board may delay the issuance of a new license or registration if a disciplinary action is pending before another of this state's health licensing agencies until the action has been dismissed or otherwise resolved;

(7) for a pharmacist, pharmacy, pharmacy technician, or pharmacist intern, violation of any order of the board, of any of the provisions of this chapter or any rules of the board or violation of any federal, state, or local law or rule reasonably pertaining to the practice of pharmacy;

(8) for a facility, other than a pharmacy, licensed by the board, violations of any order of the board, of any of the provisions of this chapter or the rules of the board or violation of any federal, state, or local law relating to the operation of the facility;

(9) engaging in any unethical conduct; conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient; or pharmacy practice that is professionally incompetent, in that it may create unnecessary danger to any patient's life, health, or safety, in any of which cases, proof of actual injury need not be established;

(10) aiding or abetting an unlicensed person in the practice of pharmacy, except that it is not a violation of this clause for a pharmacist to supervise a properly registered

pharmacy technician or pharmacist intern if that person is performing duties allowed by this chapter or the rules of the board;

(11) for an individual licensed or registered by the board, adjudication as mentally ill or developmentally disabled, or as a chemically dependent person, a person dangerous to the public, a sexually dangerous person, or a person who has a sexual psychopathic personality, by a court of competent jurisdiction, within or without this state. Such adjudication shall automatically suspend a license for the duration thereof unless the board orders otherwise;

(12) for a pharmacist or pharmacy intern, engaging in unprofessional conduct as specified in the board's rules. In the case of a pharmacy technician, engaging in conduct specified in board rules that would be unprofessional if it were engaged in by a pharmacist or pharmacist intern or performing duties specifically reserved for pharmacists under this chapter or the rules of the board;

(13) for a pharmacy, operation of the pharmacy without a pharmacist present and on duty except as allowed by a variance approved by the board;

(14) for a pharmacist, the inability to practice pharmacy with reasonable skill and safety to patients by reason of illness, drunkenness, use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills. In the case of registered pharmacy technicians, pharmacist interns, or controlled substance researchers, the inability to carry out duties allowed under this chapter or the rules of the board with reasonable skill and safety to patients by reason of illness, drunkenness, use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills;

(15) for a pharmacist, pharmacy, pharmacist intern, pharmacy technician, medical gas distributor, or controlled substance researcher, revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law;

(16) for a pharmacist or pharmacy, improper management of patient records, including failure to maintain adequate patient records, to comply with a patient's request made pursuant to sections 144.291 to 144.298, or to furnish a patient record or report required by law;

(17) fee splitting, including without limitation:

(i) paying, offering to pay, receiving, or agreeing to receive, a commission, rebate, kickback, or other form of remuneration, directly or indirectly, for the referral of patients; and

(ii) referring a patient to any health care provider as defined in sections 144.291 to 144.298 in which the licensee or registrant has a financial or economic interest as defined in section 144.6521, subdivision 3, unless the licensee or registrant has disclosed the licensee's or registrant's financial or economic interest in accordance with section 144.6521;

(18) engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws or rules;

(19) engaging in conduct with a patient that is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient;

(20) failure to make reports as required by section 151.072 or to cooperate with an

investigation of the board as required by section 151.074;
(21) knowingly providing false or misleading information that is directly related to the care of a patient unless done for an accepted therapeutic purpose such as the dispensing and administration of a placebo;
(22) aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:
(i) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;
(ii) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;
(iii) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or
(iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2;
(23) for a pharmacist, practice of pharmacy under a lapsed or nonrenewed license. For a pharmacist intern, pharmacy technician, or controlled substance researcher, performing duties permitted to such individuals by this chapter or the rules of the board under a lapsed or nonrenewed registration. For a facility required to be licensed under this chapter, operation of the facility under a lapsed or nonrenewed license or registration;
and
(24) for a pharmacist, pharmacist intern, or pharmacy technician, termination or discharge from the health professionals services program for reasons other than the satisfactory completion of the program.

Subd. 3. **Automatic suspension.** (a) A license or registration issued under this chapter to a pharmacist, pharmacist intern, pharmacy technician, or controlled substance researcher is automatically suspended if: (1) a guardian of a licensee or registrant is appointed by order of a court pursuant to sections 524.5-101 to 524.5-502, for reasons other than the minority of the licensee or registrant; or (2) the licensee or registrant is committed by order of a court pursuant to chapter 253B. The license or registration remains suspended until the licensee is restored to capacity by a court and, upon petition by the licensee or registrant, the suspension is terminated by the board after a hearing.
(b) For a pharmacist, pharmacist intern, or pharmacy technician, upon notice to the board of a judgment of, or a plea of guilty to, a felony reasonably related to the practice of pharmacy, the license or registration of the regulated person may be automatically suspended by the board. The license or registration will remain suspended until, upon petition by the regulated individual and after a hearing, the suspension is terminated by the board. The board may indefinitely suspend or revoke the license or registration of the regulated individual if, after a hearing before the board, the board finds that the felonious conduct would cause a serious risk of harm to the public.
(c) For a facility that is licensed or registered by the board, upon notice to the board that an owner of the facility is subject to a judgment of, or a plea of guilty to, a felony reasonably related to the operation of the facility, the license or registration of the facility may be automatically suspended by the board. The license or registration will remain suspended until, upon petition by the facility and after a hearing, the suspension is terminated by the board. The board may indefinitely suspend or revoke the license or

registration of the facility if, after a hearing before the board, the board finds that the felonious conduct would cause a serious risk of harm to the public.

(d) For licenses and registrations that have been suspended or revoked pursuant to paragraphs (a) and (b), the regulated individual may have a license or registration reinstated, either with or without restrictions, by demonstrating clear and convincing evidence of rehabilitation, as provided in section 364.03. If the regulated individual has the conviction subsequently overturned by court decision, the board shall conduct a hearing to review the suspension within 30 days after the receipt of the court decision. The regulated individual is not required to prove rehabilitation if the subsequent court decision overturns previous court findings of public risk.

(e) For licenses and registrations that have been suspended or revoked pursuant to paragraph (c), the regulated facility may have a license or registration reinstated, either with or without restrictions, conditions, or limitations, by demonstrating clear and convincing evidence of rehabilitation of the convicted owner, as provided in section 364.03. If the convicted owner has the conviction subsequently overturned by court decision, the board shall conduct a hearing to review the suspension within 30 days after receipt of the court decision. The regulated facility is not required to prove rehabilitation of the convicted owner if the subsequent court decision overturns previous court findings of public risk.

(f) The board may, upon majority vote of a quorum of its appointed members, suspend the license or registration of a regulated individual without a hearing if the regulated individual fails to maintain a current name and address with the board, as described in paragraphs (h) and (i), while the regulated individual is: (1) under board investigation, and a notice of conference has been issued by the board; (2) party to a contested case with the board; (3) party to an agreement for corrective action with the board; or (4) under a board order for disciplinary action. The suspension shall remain in effect until lifted by the board to the board's receipt of a petition from the regulated individual, along with the current name and address of the regulated individual.

(g) The board may, upon majority vote of a quorum of its appointed members, suspend the license or registration of a regulated facility without a hearing if the regulated facility fails to maintain a current name and address of the owner of the facility with the board, as described in paragraphs (h) and (i), while the regulated facility is: (1) under board investigation, and a notice of conference has been issued by the board; (2) party to a contested case with the board; (3) party to an agreement for corrective action with the board; or (4) under a board order for disciplinary action. The suspension shall remain in effect until lifted by the board pursuant to the board's receipt of a petition from the regulated facility, along with the current name and address of the owner of the facility.

(h) An individual licensed or registered by the board shall maintain a current name and home address with the board and shall notify the board in writing within 30 days of any change in name or home address. An individual regulated by the board shall also maintain a current business address with the board as required by section 214.073. For an individual, if a name change only is requested, the regulated individual must request a revised license or registration. The board may require the individual to substantiate the name change by submitting official documentation from a court of law or agency authorized under law to receive and officially record a name change. In the case of an individual, if an address change only is requested, no request for a revised license or registration is

required. If the current license or registration of an individual has been lost, stolen, or destroyed, the individual shall provide a written explanation to the board.

(i) A facility licensed or registered by the board shall maintain a current name and address with the board. A facility shall notify the board in writing within 30 days of any change in name. A facility licensed or registered by the board but located outside of the state must notify the board within 30 days of an address change. A facility licensed or registered by the board and located within the state must notify the board at least 60 days in advance of a change of address that will result from the move of the facility to a different location and must pass an inspection at the new location as required by the board. If the current license or registration of a facility has been lost, stolen, or destroyed, the facility shall provide a written explanation to the board.

Subd. 4. **Effective dates.** A suspension, revocation, condition, limitation, qualification, or restriction of a license or registration shall be in effect pending determination of an appeal. A revocation of a license pursuant to subdivision 1 is not appealable and shall remain in effect indefinitely.

Subd. 5. **Conditions on reissued license.** In its discretion, the board may restore and reissue a license or registration issued under this chapter, but as a condition thereof may impose any disciplinary or corrective measure that it might originally have imposed.

Subd. 6. **Temporary suspension of license for pharmacists.** In addition to any other remedy provided by law, the board may, without a hearing, temporarily suspend the license of a pharmacist if the board finds that the pharmacist has violated a statute or rule that the board is empowered to enforce and continued practice by the pharmacist would create a serious risk of harm to the public. The suspension shall take effect upon written notice to the pharmacist, specifying the statute or rule violated. The suspension shall remain in effect until the board issues a final order in the matter after a hearing. At the time it issues the suspension notice, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act. The pharmacist shall be provided with at least 20 days' notice of any hearing held pursuant to this subdivision. The hearing shall be scheduled to begin no later than 30 days after the issuance of the suspension order.

Subd. 7. **Temporary suspension of license for pharmacist interns, pharmacy technicians, and controlled substance researchers.** In addition to any other remedy provided by law, the board may, without a hearing, temporarily suspend the registration of a pharmacist intern, pharmacy technician, or controlled substance researcher if the board finds that the registrant has violated a statute or rule that the board is empowered to enforce and continued registration of the registrant would create a serious risk of harm to the public. The suspension shall take effect upon written notice to the registrant, specifying the statute or rule violated. The suspension shall remain in effect until the board issues a final order in the matter after a hearing. At the time it issues the suspension notice, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act. The licensee or registrant shall be provided with at least 20 days' notice of any hearing held pursuant to this subdivision. The hearing shall be scheduled to begin no later than 30 days after the issuance of the suspension order.

Subd. 8. **Temporary suspension of license for pharmacies, drug wholesalers, drug manufacturers, medical gas manufacturers, and medical gas distributors.** In addition to any other remedy provided by law, the board may, without a hearing,

temporarily suspend the license or registration of a pharmacy, drug wholesaler, drug manufacturer, medical gas manufacturer, or medical gas distributor if the board finds that the licensee or registrant has violated a statute or rule that the board is empowered to enforce and continued operation of the licensed facility would create a serious risk of harm to the public. The suspension shall take effect upon written notice to the licensee or registrant, specifying the statute or rule violated. The suspension shall remain in effect until the board issues a final order in the matter after a hearing. At the time it issues the suspension notice, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act. The licensee or registrant shall be provided with at least 20 days' notice of any hearing held pursuant to this subdivision. The hearing shall be scheduled to begin no later than 30 days after the issuance of the suspension order.

Subd. 9. **Evidence.** In disciplinary actions alleging a violation of subdivision 2, clause (4), (5), (6), or (7), a copy of the judgment or proceeding under the seal of the court administrator or of the administrative agency that entered the same shall be admissible into evidence without further authentication and shall constitute prima facie evidence of the contents thereof.

Subd. 10. **Mental examination; access to medical data.** (a) If the board receives a complaint and has probable cause to believe that an individual licensed or registered by the board falls under subdivision 2, clause (14), it may direct the individual to submit to a mental or physical examination. For the purpose of this subdivision, every licensed or registered individual is deemed to have consented to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining practitioner's testimony or examination reports on the grounds that the same constitute a privileged communication. Failure of a licensed or registered individual to submit to an examination when directed constitutes an admission of the allegations against the individual, unless the failure was due to circumstances beyond the individual's control, in which case a default and final order may be entered without the taking of testimony or presentation of evidence. Pharmacists affected under this paragraph shall at reasonable intervals be given an opportunity to demonstrate that they can resume the competent practice of the profession of pharmacy with reasonable skill and safety to the public. Pharmacist interns, pharmacy technicians, or controlled substance researchers affected under this paragraph shall at reasonable intervals be given an opportunity to demonstrate that they can competently resume the duties that can be performed, under this chapter or the rules of the board, by similarly registered persons with reasonable skill and safety to the public. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against a licensed or registered individual in any other proceeding.

(b) Notwithstanding section 13.384, 144.651, or any other law limiting access to medical or other health data, the board may obtain medical data and health records relating to an individual licensed or registered by the board, or to an applicant for licensure or registration, without the individual's consent when the board receives a complaint and has probable cause to believe that the individual is practicing in violation of subdivision 2, clause (14), and the data and health records are limited to the complaint. The medical data may be requested from a provider, as defined in section 144.291, subdivision 2, paragraph (h), an insurance company, or a government agency, including the Department of Human Services. A provider, insurance company, or government

agency shall comply with any written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this subdivision, unless the information is false and the provider giving the information knew, or had reason to believe, the information was false information obtained under this subdivision is classified as private under sections 13.01 to 13.87.

Subd. 11. **Tax clearance certificate.** (a) In addition to the provisions of subdivision 1, the board may not issue or renew a license or registration if the commissioner of revenue notifies the board and the licensee or applicant for a license that the licensee or applicant owes the state delinquent taxes in the amount of \$500 or more. The board may issue or renew the license or registration only if (1) the commissioner of revenue issues a tax clearance certificate, and (2) the commissioner of revenue or the licensee, registrant, or applicant forwards a copy of the clearance to the board. The commissioner of revenue may issue a clearance certificate only if the licensee, registrant, or applicant does not owe the state any uncontested delinquent taxes.

(b) For purposes of this subdivision, the following terms have the meanings given.

(1) "Taxes" are all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes.

(2) "Delinquent taxes" do not include a tax liability if (i) an administrative or court action that contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the licensee or applicant has entered into a payment agreement to pay the liability and is current with the payments.

(c) In lieu of the notice and hearing requirements of subdivision 1, when a licensee, registrant, or applicant is required to obtain a clearance certificate under this subdivision, a contested case hearing must be held if the licensee or applicant requests a hearing in writing to the commissioner of revenue within 30 days of the date of the notice provided in paragraph (a). The hearing must be held within 45 days of the date the commissioner of revenue refers the case to the Office of Administrative Hearings. Notwithstanding any law to the contrary, the licensee or applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the licensee or applicant. The notice may be served personally or by mail.

(d) A licensee or applicant must provide the licensee's or applicant's Social Security number and Minnesota business identification number on all license applications. Upon request of the commissioner of revenue, the board must provide to the commissioner of revenue a list of all licensees and applicants that includes the licensee's or applicant's name, address, Social Security number, and business identification number. The commissioner of revenue may request a list of the licensees and applicants no more than once each calendar year.

Subd. 12. **Limitation.** No board proceeding against a regulated person or facility shall be instituted unless commenced within seven years from the date of the commission of some portion of the offense or misconduct complained of except for alleged violations of subdivision 2, clause (21).

Sec. 4. **[151.072] REPORTING OBLIGATIONS.**

Subdivision 1. **Permission to report.** A person who has knowledge of any conduct

constituting grounds for discipline under the provisions of this chapter or the rules of the board may report the violation to the board.

Subd. 2. **Pharmacies.** A pharmacy located in this state must report to the board any discipline that is related to an incident involving conduct that would constitute grounds for discipline under the provisions of this chapter or the rules of the board, that is taken by the pharmacy or any of its administrators against a pharmacist, pharmacist intern, or pharmacy technician, including the termination of employment of the individual or the revocation, suspension, restriction, limitation, or conditioning of an individual's ability to practice or work at or on behalf of the pharmacy. The pharmacy shall also report the resignation of any pharmacist, pharmacist intern, or technician prior to the conclusion of any disciplinary proceeding, or prior to the commencement of formal charges but after the individual had knowledge that formal charges were contemplated or in preparation. Each report made under this subdivision must state the nature of the action taken and state in detail the reasons for the action. Failure to report violations as required by this subdivision is a basis for discipline pursuant to section 151.071, subdivision 2, clause (8).

Subd. 3. **Licensees and registrants of the board.** A licensee or registrant of the board shall report to the board personal knowledge of any conduct that the person reasonably believes constitutes grounds for disciplinary action under this chapter or the rules of the board by any pharmacist, pharmacist intern, pharmacy technician, or controlled substance researcher, including any conduct indicating that the person may be professionally incompetent, or may have engaged in unprofessional conduct or may be medically or physically unable to engage safely in the practice of pharmacy or to carry out the duties permitted to the person by this chapter or the rules of the board. Failure to report violations as required by this subdivision is a basis for discipline pursuant to section 151.071, subdivision 2, clause (20).

Subd. 4. **Self-reporting.** A licensee or registrant of the board shall report to the board any personal action that would require that a report be filed with the board pursuant to subdivision 2.

Subd. 5. **Deadlines; forms.** Reports required by subdivisions 2 to 4 must be submitted not later than 30 days after the occurrence of the reportable event or transaction. The board may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.

Subd. 6. **Subpoenas.** The board may issue subpoenas for the production of any reports required by subdivisions 2 to 4 or any related documents.

Sec. 5. **[151.073] IMMUNITY.**

Subdivision 1. **Reporting.** Any person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting in good faith a report to the board under section 151.072 or for otherwise reporting in good faith to the board violations or alleged violations of this chapter or the rules of the board. All such reports are investigative data as defined in chapter 13.

Subd. 2. **Investigation.** (a) Members of the board and persons employed by the board or engaged on behalf of the board in the investigation of violations and in the preparation and management of charges or violations of this chapter of the rules of the board, or persons participating in the investigation or testifying regarding charges of violations,

when acting in good faith, are immune from civil liability for any actions, transactions, or publications in the execution of, or relating to, their duties under this chapter or the rules of the board.

(b) Members of the board and persons employed by the board or engaged in maintaining records and making reports regarding adverse health care events are immune from civil liability for any actions, transactions, or publications in the execution of, or relating to, their duties under section 151.301.

Sec. 6. **[151.074] LICENSEE OR REGISTRANT COOPERATION.**

An individual who is licensed or registered by the board, who is the subject of an investigation by or on behalf of the board, shall cooperate fully with the investigation. An owner or employee of a facility that is licensed or registered by the board, when the facility is the subject of an investigation by or on behalf of the board, shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by, or on behalf of, the board relating to the subject of the investigation and providing copies of patient pharmacy records and other relevant records, as reasonably requested by the board, to assist the board in its investigation. The board shall maintain any records obtained pursuant to this section as investigative data pursuant to chapter 13.

Sec. 7. **[151.075] DISCIPLINARY RECORD ON JUDICIAL REVIEW.**

Upon judicial review of any board disciplinary action taken under this chapter, the reviewing court shall seal the administrative record, except for the board's final decision, and shall not make the administrative record available to the public.

Sec. 8. Minnesota Statutes 2012, section 151.211, is amended to read:

151.211 RECORDS OF PRESCRIPTIONS.

Subdivision 1. **Retention of prescription drug orders.** All ~~prescriptions dispensed~~ prescription drug orders shall be kept on file at the location ~~in~~ from which ~~such~~ dispensing occurred of the ordered drug occurs for a period of at least two years. Prescription drug orders that are electronically prescribed must be kept on file in the format in which they were originally received. Written or printed prescription drug orders and verbal prescription drug orders reduced to writing, must be kept on file as received or transcribed, except that such orders may be kept in an electronic format as allowed by the board. Electronic systems used to process and store prescription drug orders must be compliant with the requirements of this chapter and the rules of the board. Prescription drug orders that are stored in an electronic format, as permitted by this subdivision, may be kept on file at a remote location provided that they are readily and securely accessible from the location at which dispensing of the ordered drug occurred.

Subd. 2. **Refill requirements.** ~~No~~ A prescription ~~shall~~ drug order may be refilled ~~except only~~ with the written, electronic, or verbal consent of the prescriber and in accordance with the requirements of this chapter, the rules of the board, and where applicable, section 152.11. The date of such refill must be recorded and initialed upon the original prescription drug order, or within the electronically maintained record of the original prescription drug order, by the pharmacist, pharmacist intern, or practitioner who refills the prescription.

Sec. 9. **[151.251] COMPOUNDING.**

Subdivision 1. **Exemption from manufacturing licensure requirement.** Section 151.252 shall not apply to:

- (1) a practitioner engaged in extemporaneous compounding, anticipatory compounding, or compounding not done pursuant to a prescription drug order when permitted by this chapter or the rules of the board; and
- (2) a pharmacy in which a pharmacist is engaged in extemporaneous compounding, anticipatory compounding, or compounding not done pursuant to a prescription drug order when permitted by this chapter or the rules of the board.

Subd. 2. **Compounded drug.** A drug product may be compounded under this section if a pharmacist or practitioner:

(1) compounds the drug product using bulk drug substances, as defined in the federal regulations published in Code of Federal Regulations, title 21, section 207.3(a)(4):

(i) that:

(A) comply with the standards of an applicable United States Pharmacopoeia or National Formulary monograph, if a monograph exists, and the United States Pharmacopoeia chapter on pharmacy compounding;

(B) if such a monograph does not exist, are drug substances that are components of drugs approved for use in this country by the United States Food and Drug Administration; or

(C) if such a monograph does not exist and the drug substance is not a component of a drug approved for use in this country by the United States Food and Drug Administration, that appear on a list developed by the United States Food and Drug Administration through regulations issued by the secretary of the federal Department of Health and Human Services pursuant to section 503A of the Food, Drug and Cosmetic Act under paragraph (d);

(ii) that are manufactured by an establishment that is registered under section 360 of the federal Food, Drug and Cosmetic Act, including a foreign establishment that is registered under section 360(i) of that act; and

(iii) that are accompanied by valid certificates of analysis for each bulk drug substance;

(2) compounds the drug product using ingredients, other than bulk drug substances, that comply with the standards of an applicable United States Pharmacopoeia or National Formulary monograph, if a monograph exists, and the United States Pharmacopoeia chapters on pharmacy compounding;

(3) does not compound a drug product that appears on a list published by the secretary of the federal Department of Health and Human Services in the Federal Register of drug products that have been withdrawn or removed from the market because such drug products or components of such drug products have been found to be unsafe or not effective;

(4) does not compound any drug products that are essentially copies of a commercially available drug product; and

(5) does not compound any drug product that has been identified pursuant to United States Code, title 21, section 353a, as a drug product that presents demonstrable difficulties for compounding that reasonably demonstrate an adverse effect on the safety

or effectiveness of that drug product.

The term "essentially a copy of a commercially available drug product" does not include a drug product in which there is a change, made for an identified individual patient, that produces for that patient a significant difference, as determined by the prescribing practitioner, between the compounded drug and the comparable commercially available drug product.

Subd. 3. **Exceptions.** This section shall not apply to:

(1) compounded positron emission tomography drugs as defined in section 151.01, subdivision 38; or

(2) radiopharmaceuticals.

Sec. 10. Minnesota Statutes 2013 Supplement, section 151.252, is amended by adding a subdivision to read:

Subd. 1a. **Outsourcing facility.** (a) No person shall act as an outsourcing facility without first obtaining a license from the board and paying any applicable manufacturer licensing fee specified in section 151.065.

(b) Application for an outsourcing facility license under this section shall be made in a manner specified by the board and may differ from the application required of other drug manufacturers.

(c) No license shall be issued or renewed for an outsourcing facility unless the applicant agrees to operate in a manner prescribed for outsourcing facilities by federal and state law and according to Minnesota Rules.

(d) No license shall be issued or renewed for an outsourcing facility unless the applicant supplies the board with proof of such registration by the United States Food and Drug Administration as required by United States Code, title 21, section 353b.

(e) No license shall be issued or renewed for an outsourcing facility that is required to be licensed or registered by the state in which it is physically located unless the applicant supplies the board with proof of such licensure or registration. The board may establish, by rule, standards for the licensure of an outsourcing facility that is not required to be licensed or registered by the state in which it is physically located.

(f) The board shall require a separate license for each outsourcing facility located within the state and for each outsourcing facility located outside of the state at which drugs that are shipped into the state are prepared.

(g) The board shall not issue an initial or renewed license for an outsourcing facility unless the facility passes an inspection conducted by an authorized representative of the board. In the case of an outsourcing facility located outside of the state, the board may require the applicant to pay the cost of the inspection, in addition to the license fee in section 151.065, unless the applicant furnishes the board with a report, issued by the appropriate regulatory agency of the state in which the facility is located or by the United States Food and Drug Administration, of an inspection that has occurred within the 24 months immediately preceding receipt of the license application by the board. The board may deny licensure unless the applicant submits documentation satisfactory to the board that any deficiencies noted in an inspection report have been corrected.

Sec. 11. Minnesota Statutes 2012, section 151.26, is amended to read:

151.26 EXCEPTIONS.

Subdivision 1. **Generally.** Nothing in this chapter shall subject a person duly licensed in this state to practice medicine, dentistry, or veterinary medicine, to inspection by the State Board of Pharmacy, nor prevent the person from administering drugs, medicines, chemicals, or poisons in the person's practice, nor prevent a duly licensed practitioner from furnishing to a patient properly packaged and labeled drugs, medicines, chemicals, or poisons as may be considered appropriate in the treatment of such patient; unless the person is engaged in the dispensing, sale, or distribution of drugs and the board provides reasonable notice of an inspection.

Except for the provisions of section 151.37, nothing in this chapter applies to or interferes with the dispensing, in its original package and at no charge to the patient, of a legend drug, ~~other than a controlled substance~~, that was packaged by a manufacturer and provided to the dispenser for ~~distribution~~ dispensing as a professional sample. Samples of a controlled substance shall only be dispensed when one of the approved indications for the controlled substance is a seizure disorder and when the sample is prepared and distributed pursuant to Code of Federal Regulations, title 21, part 203, subpart D.

Nothing in this chapter shall prevent the sale of drugs, medicines, chemicals, or poisons at wholesale to licensed physicians, dentists and veterinarians for use in their practice, nor to hospitals for use therein. Nothing in this chapter shall prevent the sale of drugs, chemicals, or poisons either at wholesale or retail for use for commercial purposes, or in the arts, nor interfere with the sale of insecticides, as defined in Minnesota Statutes 1974, section 24.069, and nothing in

this chapter shall prevent the sale of common household preparations and other drugs, chemicals, and poisons sold exclusively for use for nonmedicinal purposes; provided that this exception does not apply to any compound, substance, or derivative that is not approved for human consumption by the United States Food and Drug Administration or specifically permitted for human consumption under Minnesota law, and, when introduced into the body, induces an effect similar to that of a Schedule I or Schedule II controlled substance listed in section 152.02, subdivisions 2 and 3, or Minnesota Rules, parts 6800.4210 and 6800.4220, regardless of whether the substance is marketed for the purpose of human consumption.

Nothing in this chapter shall apply to or interfere with the vending or retailing of any nonprescription medicine or drug not otherwise prohibited by statute ~~which~~ that is prepackaged, fully prepared by the manufacturer or producer for use by the consumer, and labeled in accordance with the requirements of the state or federal Food and Drug Act; nor to the manufacture, wholesaling, vending, or retailing of flavoring extracts, toilet articles, cosmetics, perfumes, spices, and other commonly used household articles of a chemical nature, for use for nonmedicinal purposes; provided that this exception does not apply to any compound, substance, or derivative that is not approved for human consumption by the United States Food and Drug Administration or specifically permitted for human consumption under Minnesota law, and, when introduced into the body, induces an effect similar to that of a Schedule I or Schedule II controlled substance listed in section 152.02, subdivisions 2 and 3, or Minnesota Rules, parts 6800.4210 and 6800.4220, regardless of whether the substance is marketed for the purpose of human consumption. Nothing in

this chapter shall prevent the sale of drugs or medicines by licensed pharmacists at a discount to persons over 65 years of age.

Sec. 12. Minnesota Statutes 2012, section 151.361, subdivision 2, is amended to read:

Subd. 2. **After January 1, 1983.** (a) No legend drug in solid oral dosage form may be manufactured, packaged or distributed for sale in this state after January 1, 1983 unless it is clearly marked or imprinted with a symbol, number, company name, words, letters, national drug code or other mark uniquely identifiable to that drug product. An identifying mark or imprint made as required by federal law or by the federal Food and Drug Administration shall be deemed to be in compliance with this section.

(b) The Board of Pharmacy may grant exemptions from the requirements of this section on its own initiative or upon application of a manufacturer, packager, or distributor indicating size or other characteristics ~~which~~ that render the product impractical for the imprinting required by this section.

~~(c) The provisions of clauses (a) and (b) shall not apply to any of the following:~~

~~(1) Drugs purchased by a pharmacy, pharmacist, or licensed wholesaler prior to January 1, 1983, and held in stock for resale.~~

~~(2) Drugs which are manufactured by or upon the order of a practitioner licensed by law to prescribe or administer drugs and which are to be used solely by the patient for whom prescribed.~~

Sec. 13. Minnesota Statutes 2012, section 151.37, as amended by Laws 2013, chapter 43, section 30, Laws 2013, chapter 55, section 2, and Laws 2013, chapter 108, article 10, section 5, is amended to read:

151.37 LEGEND DRUGS, WHO MAY PRESCRIBE, POSSESS.

Subdivision 1. **Prohibition.** Except as otherwise provided in this chapter, it shall be unlawful for any person to have in possession, or to sell, give away, barter, exchange, or distribute a legend drug.

Subd. 2. **Prescribing and filing.** (a) A licensed practitioner in the course of professional practice only, may prescribe, administer, and dispense a legend drug, and may cause the same to be administered by a nurse, a physician assistant, or medical student or resident under the practitioner's direction and supervision, and may cause a person who is an appropriately certified, registered, or licensed health care professional to prescribe, dispense, and administer the same within the expressed legal scope of the person's practice as defined in Minnesota Statutes. A licensed practitioner may prescribe a legend drug, without reference to a specific patient, by directing a licensed dietitian or licensed nutritionist, pursuant to section 148.634; a nurse, pursuant to section 148.235, subdivisions 8 and 9; physician assistant; medical student or resident; or pharmacist according to section 151.01, subdivision 27, to adhere to a particular practice guideline or protocol when treating patients whose condition falls within such guideline or protocol, and when such guideline or protocol specifies the circumstances under which the legend drug is to be prescribed and administered. An individual who verbally, electronically, or otherwise transmits a written, oral, or electronic order, as an agent of a prescriber, shall not be deemed to have prescribed the legend drug. This paragraph applies to a physician assistant only if the physician assistant meets the requirements of section 147A.18.

(b) The commissioner of health, if a licensed practitioner, or a person designated by the commissioner who is a licensed practitioner, may prescribe a legend drug to an

individual or by protocol for mass dispensing purposes where the commissioner finds that the conditions triggering section 144.4197 or 144.4198, subdivision 2, paragraph (b), exist. The commissioner, if a licensed practitioner, or a designated licensed practitioner, may prescribe, dispense, or administer a legend drug or other substance listed in subdivision 10 to control tuberculosis and other communicable diseases. The commissioner may modify state drug labeling requirements, and medical screening criteria and documentation, where time is critical and limited labeling and screening are most likely to ensure legend drugs reach the maximum number of persons in a timely fashion so as to reduce morbidity and mortality.

(c) A licensed practitioner that dispenses for profit a legend drug that is to be administered orally, is ordinarily dispensed by a pharmacist, and is not a vaccine, must file with the practitioner's licensing board a statement indicating that the practitioner dispenses legend drugs for profit, the general circumstances under which the practitioner dispenses for profit, and the types of legend drugs generally dispensed. It is unlawful to dispense legend drugs for profit after July 31, 1990, unless the statement has been filed with the appropriate licensing board. For purposes of this paragraph, "profit" means (1) any amount received by the practitioner in excess of the acquisition cost of a legend drug for legend drugs that are purchased in prepackaged form, or (2) any amount received by the practitioner in excess of the acquisition cost of a legend drug plus the cost of making the drug available if the legend drug requires compounding, packaging, or other treatment. The statement filed under this paragraph is public data under section 13.03. This paragraph does not apply to a licensed doctor of veterinary medicine or a registered pharmacist. Any person other than a licensed practitioner with the authority to prescribe, dispense, and administer a legend drug under paragraph (a) shall not dispense for profit. To dispense for profit does not include dispensing by a community health clinic when the profit from dispensing is used to meet operating expenses.

(d) A prescription ~~or~~ drug order for the following drugs is not valid, unless it can be established that the prescription ~~or~~ drug order was based on a documented patient evaluation, including an examination, adequate to establish a diagnosis and identify underlying conditions and contraindications to treatment:

- (1) controlled substance drugs listed in section 152.02, subdivisions 3 to 5;
- (2) drugs defined by the Board of Pharmacy as controlled substances under section 152.02, subdivisions 7, 8, and 12;
- (3) muscle relaxants;
- (4) centrally acting analgesics with opioid activity;
- (5) drugs containing butalbital; or
- (6) phosphodiesterase type 5 inhibitors when used to treat erectile dysfunction.

(e) For the purposes of paragraph (d), the requirement for an examination shall be met if an in-person examination has been completed in any of the following circumstances:

- (1) the prescribing practitioner examines the patient at the time the prescription or drug order is issued;
- (2) the prescribing practitioner has performed a prior examination of the patient;
- (3) another prescribing practitioner practicing within the same group or clinic as the prescribing practitioner has examined the patient;
- (4) a consulting practitioner to whom the prescribing practitioner has referred the

patient has examined the patient; or

(5) the referring practitioner has performed an examination in the case of a consultant practitioner issuing a prescription or drug order when providing services by means of telemedicine.

(f) Nothing in paragraph (d) or (e) prohibits a licensed practitioner from prescribing a drug through the use of a guideline or protocol pursuant to paragraph (a).

(g) Nothing in this chapter prohibits a licensed practitioner from issuing a prescription or dispensing a legend drug in accordance with the Expedited Partner Therapy in the Management of Sexually Transmitted Diseases guidance document issued by the United States Centers for Disease Control.

(h) Nothing in paragraph (d) or (e) limits prescription, administration, or dispensing of legend drugs through a public health clinic or other distribution mechanism approved by the commissioner of health or a board of health in order to prevent, mitigate, or treat a pandemic illness, infectious disease outbreak, or intentional or accidental release of a biological, chemical, or radiological agent.

(i) No pharmacist employed by, under contract to, or working for a pharmacy licensed under section 151.19, subdivision 1, may dispense a legend drug based on a prescription that the pharmacist knows, or would reasonably be expected to know, is not valid under paragraph (d).

(j) No pharmacist employed by, under contract to, or working for a pharmacy licensed under section 151.19, subdivision 2, may dispense a legend drug to a resident of this state based on a prescription that the pharmacist knows, or would reasonably be expected to know, is not valid under paragraph (d).

(k) Nothing in this chapter prohibits the commissioner of health, if a licensed practitioner, or, if not a licensed practitioner, a designee of the commissioner who is a licensed practitioner, from prescribing legend drugs for field-delivered therapy in the treatment of a communicable disease according to the Centers For Disease Control and Prevention Partner Services Guidelines.

Subd. 2a. **Delegation.** A supervising physician may delegate to a physician assistant who is registered with the Board of Medical Practice and certified by the National Commission on Certification of Physician Assistants and who is under the supervising physician's supervision, the authority to prescribe, dispense, and administer legend drugs and medical devices, subject to the requirements in chapter 147A and other requirements established by the Board of Medical Practice in rules.

Subd. 3. **Veterinarians.** A licensed doctor of veterinary medicine, in the course of professional practice only and not for use by a human being, may personally prescribe, administer, and dispense a legend drug, and may cause the same to be administered or dispensed by an assistant under the doctor's direction and supervision.

Subd. 4. **Research.** (a) Any qualified person may use legend drugs 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.

(b) Drugs may be dispensed or distributed by a pharmacy licensed by the board for use by, or administration to, patients enrolled in a bona fide research study that is being conducted pursuant to either an investigational new drug application approved by the United States Food and Drug Administration or that has been approved by an institutional

review board. For the purposes of this subdivision only:

(1) a prescription drug order is not required for a pharmacy to dispense a research drug, unless the study protocol requires the pharmacy to receive such an order;

(2) notwithstanding the prescription labeling requirements found in this chapter or the rules promulgated by the board, a research drug may be labeled as required by the study protocol; ~~and~~

(3) dispensing and distribution of research drugs by pharmacies shall not be considered ~~compounding, manufacturing, or wholesaling~~ under this chapter; and

(4) a pharmacy may compound drugs for research studies as provided in this subdivision but must follow applicable standards established by United States Pharmacopeia, chapter 795 or 797, for nonsterile and sterile compounding, respectively.

(c) An entity that is under contract to a federal agency for the purpose of distributing drugs for bona fide research studies is exempt from the drug wholesaler licensing requirements of this chapter. Any other entity is exempt from the drug wholesaler licensing requirements of this chapter if the board finds that the entity is licensed or registered according to the laws of the state in which it is physically located and it is distributing drugs for use by, or administration to, patients enrolled in a bona fide research study that is being conducted pursuant to either an investigational new drug application approved by the United States Food and Drug Administration or that has been approved by an institutional review board.

Subd. 5. **Exclusion for course of practice.** Nothing in this chapter shall prohibit the sale to, or the possession of, a legend drug by licensed drug wholesalers, licensed manufacturers, registered pharmacies, local detoxification centers, licensed hospitals, bona fide hospitals wherein animals are treated, or licensed pharmacists and licensed practitioners while acting within the course of their practice only.

Subd. 6. **Exclusion for course of employment.** (a) Nothing in this chapter shall prohibit the possession of a legend drug by an employee, agent, or sales representative of a registered drug manufacturer, or an employee or agent of a registered drug wholesaler, or registered pharmacy, while acting in the course of employment.

(b) Nothing in this chapter shall prohibit the following entities from possessing a legend drug for the purpose of disposing of the legend drug as pharmaceutical waste:

(1) a law enforcement officer;

(2) a hazardous waste transporter licensed by the Department of Transportation;

(3) a facility permitted by the Pollution Control Agency to treat, store, or dispose of hazardous waste, including household hazardous waste;

(4) a facility licensed by the Pollution Control Agency or a metropolitan county as a very small quantity generator collection program or a minimal generator;

(5) a county that collects, stores, transports, or disposes of a legend drug pursuant to a program in compliance with applicable federal law or a person authorized by the county to conduct one or more of these activities; or

(6) a sanitary district organized under chapter 115, or a special law.

Subd. 7. **Exclusion for prescriptions.** (a) Nothing in this chapter shall prohibit the possession of a legend drug by a person for that person's use when it has been dispensed to the person in accordance with a valid prescription issued by a practitioner.

(b) Nothing in this chapter shall prohibit a person, for whom a legend drug has been dispensed in accordance with a written or oral prescription by a practitioner, from

designating a family member, caregiver, or other individual to handle the legend drug for the purpose of assisting the person in obtaining or administering the drug or sending the drug for destruction.

(c) Nothing in this chapter shall prohibit a person for whom a prescription drug has been dispensed in accordance with a valid prescription issued by a practitioner from transferring the legend drug to a county that collects, stores, transports, or disposes of a legend drug pursuant to a program in compliance with applicable federal law or to a person authorized by the county to conduct one or more of these activities.

Subd. 8. **Misrepresentation.** It is unlawful for a person to procure, attempt to procure, possess, or control a legend drug by any of the following means:

- (1) deceit, misrepresentation, or subterfuge;
- (2) using a false name; or
- (3) falsely assuming the title of, or falsely representing a person to be a manufacturer, wholesaler, pharmacist, practitioner, or other authorized person for the purpose of obtaining a legend drug.

Subd. 9. **Exclusion for course of laboratory employment.** Nothing in this chapter shall prohibit the possession of a legend drug by an employee or agent of a registered analytical laboratory while acting in the course of laboratory employment.

Subd. 10. **Purchase of drugs and other agents by commissioner of health.** The commissioner of health, in preparation for and in carrying out the duties of sections 144.05, 144.4197, and 144.4198, may purchase, store, and distribute antituberculosis drugs, biologics, vaccines, antitoxins, serums, immunizing agents, antibiotics, antivirals, antidotes, other pharmaceutical agents, and medical supplies to treat and prevent communicable disease.

Subd. 10a. **Emergency use authorizations.** Nothing in this chapter shall prohibit the purchase, possession, or use of a legend drug by an entity acting according to an emergency use authorization issued by the United States Food and Drug Administration pursuant to United States Code, title 21, section 360bbb-3. The entity must be specifically tasked in a public health response plan to perform critical functions necessary to support the response to a public health incident or event.

Subd. 11. **Complaint reporting Exclusion for health care educational programs.** The Board of Pharmacy shall report on a quarterly basis to the Board of Optometry any complaints received regarding the prescription or administration of legend drugs under section 148.576. Nothing in this section shall prohibit an accredited public or private postsecondary school from possessing a legend drug that is not a controlled substance listed in section 152.02, provided that:

- (1) the school is approved by the United States secretary of education in accordance with requirements of the Higher Education Act of 1965, as amended;
 - (2) the school provides a course of instruction that prepares individuals for employment in a health care occupation or profession;
 - (3) the school may only possess those drugs necessary for the instruction of such individuals; and
 - (4) the drugs may only be used in the course of providing such instruction and are labeled by the purchaser to indicate that they are not to be administered to patients.
- Those areas of the school in which legend drugs are stored are subject to section 151.06, subdivision 1, paragraph (a), clause (4).

Sec. 14. Minnesota Statutes 2012, section 151.44, is amended to read:

151.44 DEFINITIONS.

As used in sections 151.43 to 151.51, the following terms have the meanings given in paragraphs (a) to (h):

(a) "Wholesale drug distribution" means distribution of prescription or nonprescription drugs to persons other than a consumer or patient or reverse distribution of such drugs, but does not include:

(1) a sale between a division, subsidiary, parent, affiliated, or related company under the common ownership and control of a corporate entity;

(2) the purchase or other acquisition, by a hospital or other health care entity that is a member of a group purchasing organization, of a drug for its own use from the organization or from other hospitals or health care entities that are members of such organizations;

(3) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by a charitable organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1988, to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(4) the sale, purchase, or trade of a drug or offer to sell, purchase, or trade a drug among hospitals or other health care entities that are under common control;

(5) the sale, purchase, or trade of a drug or offer to sell, purchase, or trade a drug for emergency medical reasons;

(6) the sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug pursuant to a prescription;

(7) the transfer of prescription or nonprescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage;

(8) the distribution of prescription or nonprescription drug samples by manufacturers representatives; or

(9) the sale, purchase, or trade of blood and blood components.

(b) "Wholesale drug distributor" means anyone engaged in wholesale drug distribution including, but not limited to, manufacturers; ~~repackers~~ repackagers; own-label distributors; jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; and pharmacies that conduct wholesale drug distribution. A wholesale drug distributor does not include a common carrier or individual hired primarily to transport prescription or nonprescription drugs.

(c) "Manufacturer" ~~means anyone who is engaged in the manufacturing, preparing, propagating, compounding, processing, packaging, repackaging, or labeling of a prescription drug~~ has the meaning provided in section 151.01, subdivision 14a.

(d) "Prescription drug" means a drug required by federal or state law or regulation to be dispensed only by a prescription, including finished dosage forms and active ingredients subject to United States Code, title 21, sections 811 and 812.

(e) "Blood" means whole blood collected from a single donor and processed either for transfusion or further manufacturing.

(f) "Blood components" means that part of blood separated by physical or mechanical means.

(g) "Reverse distribution" means the receipt of prescription or nonprescription drugs received from or shipped to Minnesota locations for the purpose of returning the drugs to their producers or distributors.

(h) "Reverse distributor" means a person engaged in the reverse distribution of drugs.

Sec. 15. Minnesota Statutes 2012, section 151.58, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For purposes of this section only, the terms defined in this subdivision have the meanings given.

(a) "Automated drug distribution system" or "system" means a mechanical system approved by the board that performs operations or activities, other than compounding or administration, related to the storage, packaging, or dispensing of drugs, and collects, controls, and maintains all required transaction information and records.

(b) "Health care facility" means a nursing home licensed under section 144A.02; a housing with services establishment registered under section 144D.01, subdivision 4, in which a home provider licensed under chapter 144A is providing centralized storage of medications; or a ~~community behavioral health hospital or~~ Minnesota sex offender program facility operated by the Department of Human Services.

(c) "Managing pharmacy" means a pharmacy licensed by the board that controls and is responsible for the operation of an automated drug distribution system.

Sec. 16. Minnesota Statutes 2012, section 151.58, subdivision 3, is amended to read:

Subd. 3. **Authorization.** A pharmacy may use an automated drug distribution system to fill prescription drug orders for patients of a health care facility provided that the policies and procedures required by this section have been approved by the board. The automated drug distribution system may be located in a health care facility that is not at the same location as the managing pharmacy. When located within a health care facility, the system is considered to be an extension of the managing pharmacy.

Sec. 17. Minnesota Statutes 2012, section 151.58, subdivision 5, is amended to read:

Subd. 5. **Operation of automated drug distribution systems.** (a) The managing pharmacy and the pharmacist in charge are responsible for the operation of an automated drug distribution system.

(b) Access to an automated drug distribution system must be limited to pharmacy and nonpharmacy personnel authorized to procure drugs from the system, except that field service technicians may access a system located in a health care facility for the purposes of servicing and maintaining it while being monitored either by the managing pharmacy, or a licensed nurse within the health care facility. In the case of an automated drug distribution system that is not physically located within a licensed pharmacy, access for the purpose of procuring drugs shall be limited to licensed nurses. Each person authorized to access the system must be assigned an individual specific access code. Alternatively, access to the system may be controlled through the use of biometric identification procedures. A policy specifying time access parameters, including time-outs, logoffs, and lockouts, must be in place.

(c) For the purposes of this section only, the requirements of section 151.215 are met if the following clauses are met:

(1) a pharmacist employed by and working at the managing pharmacy, or at a

pharmacy that is acting as a central services pharmacy for the managing pharmacy, pursuant to Minnesota Rules, part 6800.4075, must review, interpret, and approve all prescription drug orders before any drug is distributed from the system to be administered to a patient. A pharmacy technician may perform data entry of prescription drug orders provided that a pharmacist certifies the accuracy of the data entry before the drug can be released from the automated drug distribution system. A pharmacist employed by and working at the managing pharmacy must certify the accuracy of the filling of any cassettes, canisters, or other containers that contain drugs that will be loaded into the automated drug distribution system; and

(2) when the automated drug dispensing system is located and used within the managing pharmacy, a pharmacist must personally supervise and take responsibility for all packaging and labeling associated with the use of an automated drug distribution system.

(d) Access to drugs when a pharmacist has not reviewed and approved the prescription drug order is permitted only when a formal and written decision to allow such access is issued by the pharmacy and the therapeutics committee or its equivalent. The committee must specify the patient care circumstances in which such access is allowed, the drugs that can be accessed, and the staff that are allowed to access the drugs.

(e) In the case of an automated drug distribution system that does not utilize bar coding in the loading process, the loading of a system located in a health care facility may be performed by a pharmacy technician, so long as the activity is continuously supervised, through a two-way audiovisual system by a pharmacist on duty within the managing pharmacy. In the case of an automated drug distribution system that utilizes bar coding in the loading process, the loading of a system located in a health care facility may be performed by a pharmacy technician or a licensed nurse, provided that the managing pharmacy retains an electronic record of loading activities.

(f) The automated drug distribution system must be under the supervision of a pharmacist. The pharmacist is not required to be physically present at the site of the automated drug distribution system if the system is continuously monitored electronically by the managing pharmacy. A pharmacist on duty within a pharmacy licensed by the board must be continuously available to address any problems detected by the monitoring or to answer questions from the staff of the health care facility. The licensed pharmacy may be the managing pharmacy or a pharmacy which is acting as a central services pharmacy, pursuant to Minnesota Rules, part 6800.4075, for the managing pharmacy.

Sec. 18. Minnesota Statutes 2013 Supplement, section 152.02, subdivision 2, is amended to read:

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-alpha-cetylmethadol, 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) diethylambutene;
(15) difenoxin;
(16) dimenoxadol;
(17) dimepheptanol;
(18) dimethylambutene;
(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).

(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) hydromorphanol;
- (13) methyldesorphine;
- (14) methyldihydromorphine;
- (15) morphine methylbromide;
- (16) morphine methylsulfonate;
- (17) morphine-n-oxide;
- (18) myrophine;
- (19) nicocodeine;
- (20) nicomorphine;
- (21) normorphine;
- (22) pholcodine;
- (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-methylenedioxy amphetamine;
- (9) alpha-ethyltryptamine;
- (10) bufotenine;
- (11) diethyltryptamine;
- (12) dimethyltryptamine;
- (13) 3,4,5-trimethoxy amphetamine;
- (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 (TCP 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 (2-CD);
- (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-propyltryptamine (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-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (25I-NBOMe).

(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.

(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) fenethylamine;
- (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) fluoromethcathinone;
- (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) β -keto-N-methylbenzodioxolylpropylamine (bk-MBDB or butylone);
- (20) 2-(methylamino)-1-(4-methylphenyl)butan-1-one (4-MEMABP or BZ-6378);
- (21) naphthylpyrovalerone (naphyrone); and
- (22) (RS)-1-phenyl-2-(1-pyrrolidinyl)-1-pentanone (alpha-PVP or

alpha-pyrrolidinovalerophenone;

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

~~(22)~~ (24) 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, alkylendioxy, 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, 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-naphthoyl)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) Naphthylmethyloindoles, 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 naphthylmethyloindoles 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) Naphthylmethyloindenes, 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 naphthylmethyloindenes include, but are not limited to, E-1-[1-(1-naphthalenylmethylene)-1H-inden-3-yl]pentane (JWH-176).
- (v) Phenylacetyloindoles, which are any compounds containing a 3-phenylacetyloindole 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 phenylacetyloindoles 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[3.3.1.1^{3,7}]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).

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

Article 12 - Appropriations

Board of Pharmacy

-0-

2,000

This appropriation is from the state government special revenue fund for board member per diem payments.

Sec. 2. APPROPRIATION.

\$210,000 in fiscal year 2015 is appropriated from the state government special

revenue fund to the Board of Pharmacy to implement changes to the prescription monitoring program. The base for this appropriation is \$171,000 in fiscal years 2016 and 2017.

EFFECTIVE DATE. This section is effective July 1, 2014.