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HOUSE OF REPRESENTATIVES

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HOUSE FILE No. **399**

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The bill was read for the first time and referred to the Committee on Health and Human Services

1.1 A bill for an act
1.2 relating to health; establishing the Long-Term Care Patient Access to
1.3 Pharmaceuticals Act; providing penalties; proposing coding for new law in
1.4 Minnesota Statutes, chapter 151.

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

1.6 Section 1. **LEGISLATIVE FINDINGS AND PURPOSE.**

1.7 (a) The legislature finds that a mechanism is necessary to provide patients who have
1.8 the ability to acquire lower cost drugs through a federal or state program, any insurance
1.9 benefit program, provider, or other entity, access to those drugs if they reside in a long-term
1.10 care facility. The pharmacy within the long-term care facility or which has a contract with
1.11 the long-term care facility shall receive the lower cost drugs from the federal or state
1.12 program, insurance benefit program, provider, or other entity and repackage and relabel
1.13 those drugs so they may be dispensed in unit doses to patients in a long-term care facility.

1.14 (b) This act shall provide for the care, protection, and treatment of patients in
1.15 long-term care facilities by allowing them to utilize the drug benefit provided by the
1.16 federal or state government, any insurance benefit program, provider, or other entity.
1.17 In order to provide for the care, protection, and treatment of patients in long-term care
1.18 facilities, a long-term care facility or a pharmacy which has a contract with a long-term
1.19 care facility may:

1.20 (1) accept, on behalf of the patient, drugs received from a federal or state program,
1.21 any insurance benefit program, provider, or other entity; and

1.22 (2) repackage and relabel those drugs so that the patient may receive them in a
1.23 unit dose.

2.1 Sec. 2. [151.415] THE LONG-TERM CARE PATIENT ACCESS TO
2.2 PHARMACEUTICALS ACT.

2.3 Subdivision 1. Title; citation. This section may be cited as the "Long-Term Care
2.4 Patient Access to Pharmaceuticals Act."

2.5 Subd. 2. Definitions. The following terms have the meanings given them unless
2.6 otherwise provided by text.

2.7 (a) "Board" means the State Board of Pharmacy.

2.8 (b) "Dispense" means, as related to a drug, to prepare the drug for administration
2.9 to a patient. This term includes:

2.10 (1) the act of screening the drug for potential drug therapy problems, including
2.11 reviewing possible drug interactions, reviewing the dosage and duration of drug therapy,
2.12 reviewing contraindications of the drug, reviewing information regarding the patient and
2.13 pharmaceutical coverage, and compounding and mixing the drug; and

2.14 (2) any other activity associated with review of the drug which is designed to ensure
2.15 the safety of the drug.

2.16 (c) "Drug" means medication which has been approved by the Food and Drug
2.17 Administration. The term does not include medication which is provided under United
2.18 States Code, title 42, section s1395w-101 et seq.

2.19 (d) "Drug source" means a facility or program where drugs are lawfully
2.20 manufactured, dispensed, or distributed. Drug source includes a pharmacy, an entity, and a
2.21 federal or state agency or instrumentality. Drug source does not include a long-term
2.22 care pharmacy.

2.23 (e) "Long-term care facility" has the meaning given in section 256.9741, subdivision
2.24 1.

2.25 (f) "Long-term care pharmacy" means any of the following:

2.26 (1) a pharmacy within a long-term care facility;

2.27 (2) a pharmacist employed by a long-term care facility who fills prescriptions for
2.28 patients of a long-term care facility;

2.29 (3) a pharmacist who contracts with a long-term care facility to fill prescriptions for
2.30 patients of a long-term care facility; and

2.31 (4) a pharmaceutical provider that contracts with a long-term care facility to fill
2.32 prescriptions for patients of a long-term care facility.

2.33 (g) "Pharmaceutical provider" means an entity that employs a pharmacist.

2.34 Subd. 3. State Board of Pharmacy. The State Board of Pharmacy shall develop
2.35 any forms required by this section and distribute the forms upon request to long-term care

3.1 facilities, physicians, long-term care pharmacies, pharmacists, and the public. The board
3.2 shall make any forms required by this section available electronically via the Internet.

3.3 Subd. 4. **Authorization to administer and dispense drugs.** (a) Notwithstanding
3.4 any law to the contrary, a long-term care facility shall administer a drug acquired from a
3.5 drug source to a patient of a long-term care facility.

3.6 (b) Notwithstanding any law to the contrary, a long-term care pharmacy shall
3.7 dispense a drug acquired from a drug source for administration to a patient of a long-term
3.8 care facility.

3.9 (c) A long-term care facility shall administer a drug acquired from a drug source to a
3.10 patient of a long-term care facility if all of the following conditions are met:

3.11 (1) the drug is acquired from a drug source;

3.12 (2) there is a prescription for the drug; and

3.13 (3) the patient has signed a form authorizing the long-term care facility to administer
3.14 a drug acquired from a drug source. In the case of a minor, or incapacitated patient, the
3.15 form must be signed by the parent, guardian, person with power of attorney, or family
3.16 member authorized to sign the form.

3.17 (d) A long-term care pharmacy shall dispense a drug acquired from a drug source to
3.18 a patient of a long-term care facility if all of the conditions in paragraph (c) are met.

3.19 (e) A long-term care pharmacy shall repackage, relabel, and dispense a drug acquired
3.20 from a drug source in unit doses or other forms that enable a long-term care facility to
3.21 administer the drug to a patient safely and in a manner and form that conforms with the
3.22 long-term care facility's drug administration procedures and quality assurance standards.

3.23 Subd. 5. **Maintenance of records.** For each drug dispensed by a long-term care
3.24 pharmacy under this section, the long-term care pharmacy and long-term care facility shall
3.25 maintain a record for at least two years of the following information:

3.26 (1) name and quantity of the drug prescribed;

3.27 (2) name and address of the patient to whom it was dispensed;

3.28 (3) name and address or other identifier of the prescriber;

3.29 (4) date the prescription was issued and the date the drug was dispensed;

3.30 (5) directions for use, including cautions communicated to the patient by labels
3.31 or other means when dispensed;

3.32 (6) date the prescription was compounded or dispensed;

3.33 (7) name and business address of the dispensing pharmacist; and

3.34 (8) drug source which provided the drug.

3.35 Subd. 6. **Drug source.** The long-term care pharmacy shall obtain from the drug
3.36 source the following information:

- 4.1 (1) a copy of the original prescription; and
4.2 (2) the name of the manufacturer of the drug, the lot or control number, and the
4.3 expiration date of the drug.

4.4 Subd. 7. **Immunity from civil liability.** (a) A long-term care pharmacy and its
4.5 employees or agents dispensing a drug under this section acquired from a drug source
4.6 shall be immune from civil liability arising from harm caused by the drug due to acts or
4.7 omissions of other persons outside of the long-term care pharmacy if the long-term care
4.8 pharmacy properly dispenses, repackages, and relabels the drug.

4.9 (b) A long-term care facility and the facility's employees or agents who properly
4.10 administer a drug provided by a long-term care pharmacy under this section shall be
4.11 immune from civil liability arising from harm caused by the drug due to acts or omissions
4.12 of other persons outside the long-term care facility.

4.13 Subd. 8. **Repackaging and relabeling fee.** A long-term care pharmacy may
4.14 charge a fee for repackaging and relabeling a drug obtained from a drug source facility
4.15 for dispensing to a patient in a long-term care facility. The fee may be no higher than
4.16 what a community pharmacy would charge for dispensing a drug. The fee shall be a set
4.17 amount per patient notwithstanding the number of prescriptions that are repackaged and
4.18 re-labeled for each patient.

4.19 Subd. 9. **Penalties.** The board shall have the power to revoke or suspend the
4.20 registration certificate of any pharmacy that, or the license of any pharmacist who refuses
4.21 to comply with the provisions of this section.