

1.1 A bill for an act
1.2 relating to health; modifying requirements for electronic prescribing; establishing
1.3 a civil penalty; amending Minnesota Statutes 2016, section 62J.497, subdivision
1.4 2, by adding subdivisions.

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

1.6 Section 1. Minnesota Statutes 2016, section 62J.497, subdivision 2, is amended to read:

1.7 Subd. 2. **Requirements for electronic prescribing.** (a) ~~Effective January 1, 2011,~~
1.8 Except as provided in subdivision 2a, all providers, group purchasers, prescribers, and
1.9 dispensers must establish, maintain, and use an electronic prescription drug program, and
1.10 all prescribers shall use e-prescribing to issue a prescription or prescription-related
1.11 information to a pharmacy, pharmacy benefit manager, or group purchaser. This program
1.12 must comply with the applicable standards in this section for transmitting, directly or through
1.13 an intermediary, prescriptions and prescription-related information using electronic media.

1.14 (b) If transactions described in this section are conducted, they must be done electronically
1.15 using the standards described in this section. Nothing in this section requires providers,
1.16 group purchasers, prescribers, or dispensers to electronically conduct transactions that are
1.17 expressly prohibited by other sections or federal law.

1.18 (c) Providers, group purchasers, prescribers, and dispensers must use either HL7 messages
1.19 or the NCPDP SCRIPT Standard to transmit prescriptions or prescription-related information
1.20 internally when the sender and the recipient are part of the same legal entity. If an entity
1.21 sends prescriptions outside the entity, it must use the NCPDP SCRIPT Standard or other
1.22 applicable standards required by this section. Any pharmacy within an entity must be able
1.23 to receive electronic prescription transmittals from outside the entity using the adopted

2.1 NCPDP SCRIPT Standard. This exemption does not supersede any Health Insurance
2.2 Portability and Accountability Act (HIPAA) requirement that may require the use of a
2.3 HIPAA transaction standard within an organization.

2.4 Sec. 2. Minnesota Statutes 2016, section 62J.497, is amended by adding a subdivision to
2.5 read:

2.6 Subd. 2a. Exemptions from requirements for electronic prescribing. (a) The
2.7 requirements in subdivision 2 shall not apply to a prescription:

2.8 (1) issued in circumstances in which e-prescribing is not possible due to a temporary
2.9 technological or electrical failure;

2.10 (2) issued by a prescriber to be dispensed by a pharmacy located outside the state;

2.11 (3) issued by a prescriber who is the same entity as the dispenser;

2.12 (4) that includes elements that are not supported by the most recently implemented
2.13 version of the NCPDP SCRIPT Standard;

2.14 (5) for a drug in which the federal Food and Drug Administration requires the prescription
2.15 to contain elements that cannot be accomplished with e-prescribing;

2.16 (6) that allows for dispensing of a nonpatient-specific prescription pursuant to a standing
2.17 order, approved protocol for drug therapy, collaborative drug management, or comprehensive
2.18 medication management; in response to a public health emergency; or in other circumstances
2.19 in which a prescriber may issue a nonpatient-specific prescription;

2.20 (7) issued by a prescriber prescribing a drug under a research protocol;

2.21 (8) issued by a prescriber who has received a waiver of the e-prescribing requirement
2.22 in subdivision 2, issued by the commissioner under subdivision 2b; or

2.23 (9) issued under circumstances where, notwithstanding a prescriber's present ability to
2.24 e-prescribe as required by subdivision 2, the prescriber reasonably determines that it would
2.25 be impractical for the patient to obtain a drug prescribed by e-prescribing in a timely manner
2.26 and that such a delay would adversely impact the patient's medical condition.

2.27 (b) A pharmacist who receives a written or oral prescription or a prescription by facsimile
2.28 may fill the prescription without verifying that the prescription properly falls within one of
2.29 the exceptions in paragraph (a). A pharmacist may continue to dispense drugs according to
2.30 otherwise valid prescriptions that are conveyed to the pharmacist in writing, orally, or via
2.31 facsimile and that do not comply with the e-prescribing requirement in subdivision 2 but
2.32 that otherwise comply with applicable state and federal laws regarding prescribing.

3.1 Sec. 3. Minnesota Statutes 2016, section 62J.497, is amended by adding a subdivision to
3.2 read:

3.3 Subd. 2b. **Waiver of compliance with requirements for electronic prescribing.** (a)
3.4 The commissioner shall establish a process to waive the e-prescribing requirements in
3.5 subdivision 2, for a prescriber who applies for a waiver in a manner required by the
3.6 commissioner. To apply for a waiver, a prescriber must demonstrate to the commissioner
3.7 that the prescriber is unable to comply with the e-prescribing requirements in subdivision
3.8 2 due to economic hardship, technological limitations that are not reasonably within the
3.9 control of the prescriber, or other extraordinary circumstances. A waiver shall be valid for
3.10 a period of time specified by the commissioner but shall not be valid for more than one
3.11 year.

3.12 (b) The commissioner may renew a waiver issued under paragraph (a) for a period of
3.13 time specified by the commissioner, not to exceed one year, if a prescriber applies to the
3.14 commissioner for renewal.

3.15 Sec. 4. Minnesota Statutes 2016, section 62J.497, is amended by adding a subdivision to
3.16 read:

3.17 Subd. 2c. **Penalty.** A prescriber who violates subdivision 2 and is not eligible for an
3.18 exemption under subdivision 2a is subject to a civil penalty of up to \$250 per violation, not
3.19 to exceed \$5,000 per calendar year. The commissioner of health shall enforce subdivisions
3.20 2 and 2a.