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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1731

02/25/2019 Authored by Daudt
The bill was read for the first time and referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to veterinary medicine; establishing a veterinary prescription monitoring
1.3 program; prohibiting veterinary prescriptions for controlled substances in certain
1.4 circumstances; requiring registration and data submission; providing liability
1.5 immunity; appropriating money; amending Minnesota Statutes 2018, sections
1.6 156.16, by adding subdivisions; 156.18, subdivision 1; proposing coding for new
1.7 law in Minnesota Statutes, chapter 156.

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

1.9 Section 1. Minnesota Statutes 2018, section 156.16, is amended by adding a subdivision
1.10 to read:

1.11 Subd. 1a. **Approved microchip.** "Approved microchip" means an implantable microchip
1.12 approved by the board and capable of storing a scannable and unique animal identification
1.13 number.

1.14 Sec. 2. Minnesota Statutes 2018, section 156.16, is amended by adding a subdivision to
1.15 read:

1.16 Subd. 2a. **Controlled substances.** "Controlled substances" has the meaning given in
1.17 section 152.126, subdivision 1.

1.18 Sec. 3. Minnesota Statutes 2018, section 156.16, is amended by adding a subdivision to
1.19 read:

1.20 Subd. 10a. **Reportable prescription.** "Reportable prescription" means a prescription
1.21 or other veterinary authorization for a controlled substance issued by a veterinarian that,
1.22 when used as directed by the veterinarian, is intended to be taken for more than seven days.

2.1 Sec. 4. Minnesota Statutes 2018, section 156.18, subdivision 1, is amended to read:

2.2 Subdivision 1. **Prescription.** (a) A person may not dispense a veterinary prescription
2.3 drug to a client without a prescription or other veterinary authorization. A person may not
2.4 make extra-label use of an animal or human drug for an animal without a prescription from
2.5 a veterinarian. A veterinarian or the veterinarian's authorized employee may dispense
2.6 veterinary prescription drugs, human drugs for extra-label use, or an over-the-counter drug
2.7 for extra-label use by a client without a separate written prescription, providing there is
2.8 documentation of the prescription in the medical record ~~and there is~~ an existing
2.9 veterinarian-client-patient relationship, and full compliance with the reporting requirements
2.10 in section 156.185. The prescribing veterinarian must monitor the use of veterinary
2.11 prescription drugs, human drugs for extra-label use, or over-the-counter drugs for extra-label
2.12 use by a client.

2.13 (b) A veterinarian may dispense prescription veterinary drugs and prescribe and dispense
2.14 extra-label use drugs to a client without personally examining the animal if a bona fide
2.15 veterinarian-client-patient relationship exists and in the judgment of the veterinarian the
2.16 client has sufficient knowledge to use the drugs properly.

2.17 (c) A veterinarian may issue a prescription or other veterinary authorization by oral or
2.18 written communication to the dispenser, or by computer connection. If the communication
2.19 is oral, the veterinarian must enter it into the patient's record. The dispenser must record the
2.20 veterinarian's prescription or other veterinary authorization within 72 hours.

2.21 (d) A prescription or other veterinary authorization must include:

2.22 (1) the name, address, and, if written, the signature of the prescriber;

2.23 (2) the name and address of the client;

2.24 (3) identification of the species for which the drug is prescribed or ordered;

2.25 (4) the name, strength, and quantity of the drug;

2.26 (5) the date of issue;

2.27 (6) directions for use;

2.28 (7) withdrawal time;

2.29 (8) expiration date of prescription; and

2.30 (9) number of authorized refills.

3.1 (e) A veterinarian may, in the course of professional practice and an existing
3.2 veterinarian-client-patient relationship, prepare medicaments that combine drugs approved
3.3 by the United States Food and Drug Administration and other legally obtained ingredients
3.4 with appropriate vehicles.

3.5 (f) A veterinarian or a bona fide employee of a veterinarian may dispense veterinary
3.6 prescription drugs to a person on the basis of a prescription issued by a licensed veterinarian.
3.7 The provisions of paragraphs (c) and (d) and the reporting requirements in section 156.185
3.8 apply.

3.9 (g) This section does not limit the authority of the Minnesota Racing Commission to
3.10 regulate veterinarians providing services at a licensed racetrack.

3.11 (h) A veterinarian must not issue a controlled substance prescription or other veterinary
3.12 authorization or dispense a controlled substance to a client for more than seven days if the
3.13 patient does not possess an implanted, approved microchip containing the unique
3.14 identification number assigned to the patient. The board must maintain a list of approved
3.15 microchip models and must post the list on the board's website.

3.16 Sec. 5. **[156.185] CONTROLLED SUBSTANCE PRESCRIPTION MONITORING.**

3.17 Subdivision 1. **Treatment of pain.** This section is not intended to limit or interfere with
3.18 a veterinarian's legitimate prescribing of controlled substances to address patient pain and
3.19 other medical conditions.

3.20 Subd. 2. **Electronic reporting system.** (a) The board must establish by January 1, 2020,
3.21 an electronic system for reporting the information required under subdivision 3.

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

3.25 Subd. 3. **Reporting requirements; notice.** (a) Beginning July 1, 2021, the prescribing
3.26 veterinarian must submit the following information to the database within 72 hours of
3.27 prescribing each reportable prescription:

3.28 (1) the information required under section 156.18, subdivision 1, paragraph (d), clauses
3.29 (4), (5), (6), and (9); and

3.30 (2) the unique identification number of the patient.

3.31 (b) The prescribing veterinarian must submit the required information by a procedure
3.32 and in a format established by the board.

4.1 (c) A prescribing veterinarian is not required to submit information to the database for
4.2 controlled substances administered to a patient under direct veterinary care.

4.3 (d) A prescribing veterinarian must provide to the client a conspicuous notice of the
4.4 reporting requirements of this section and notice that the information may be used to deter
4.5 the use of animals to obtain controlled substances for human use.

4.6 Subd. 4. **Database; use of data by board.** (a) The board must develop and maintain a
4.7 database of the data reported under subdivision 3. The board must maintain data that could
4.8 identify an individual veterinarian in encrypted form. Except as otherwise allowed under
4.9 subdivision 5, the database may be used by permissible users identified under subdivision
4.10 5 for the identification of patients receiving prescriptions for controlled substances from
4.11 veterinarians.

4.12 (b) No permissible user identified under subdivision 5 may access the database for the
4.13 sole purpose of identifying veterinarians who exhibit unusual or excessive controlled
4.14 substances prescribing patterns without a valid search warrant or court order.

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

4.18 Subd. 5. **Access to reporting system data.** (a) Except as indicated in this subdivision
4.19 and notwithstanding section 156.082, the data submitted to the database under subdivision
4.20 3 are private data on individuals or nonpublic data as defined in section 13.02, and are only
4.21 accessible to permissible users as identified in this subdivision.

4.22 (b) Except as specified in subdivision 4, the following persons must be considered
4.23 permissible users and may access the data submitted under subdivision 3 in the same or
4.24 similar manner, and for the same or similar purposes, as those persons who are authorized
4.25 to access similar private data on individuals or nonpublic data under federal and state law:

4.26 (1) a veterinarian or an agent or employee of the veterinarian to whom the veterinarian
4.27 has delegated the task of accessing the data, to the extent the information relates specifically
4.28 to a current patient;

4.29 (2) personnel or designees of the board assigned to conduct a bona fide investigation of
4.30 a complaint received by that board alleging that a specific veterinarian is impaired by use
4.31 of a drug for which data is collected under subdivision 3;

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

5.4 (4) authorized personnel of a vendor under contract with the state of Minnesota who are
5.5 engaged in the design, implementation, operation, and maintenance of the monitoring
5.6 program as part of the assigned duties and responsibilities of their employment, provided
5.7 that access to data is limited to the minimum amount necessary to carry out such duties and
5.8 responsibilities; and

5.9 (5) federal, state, and local law enforcement authorities acting pursuant to a valid search
5.10 warrant.

5.11 (c) Section 13.05, subdivision 6, applies to any contract the board enters into pursuant
5.12 to subdivision 2. A vendor must not use data collected under this section for any purpose
5.13 not specified in this section.

5.14 (d) The board may participate in an interstate prescription monitoring program data
5.15 exchange system provided that permissible users in other states have access to the data only
5.16 as allowed under this section and that section 13.05, subdivision 6, applies to any contract
5.17 or memorandum of understanding that the board enters into under this paragraph.

5.18 **Subd. 6. Disciplinary action.** (a) A prescribing veterinarian who knowingly fails to
5.19 submit data to the database as required under this section is subject to disciplinary action
5.20 by the board.

5.21 (b) A veterinarian authorized to access the data who knowingly discloses the data in
5.22 violation of state or federal laws relating to the privacy of patient data is subject to
5.23 disciplinary action by the board and appropriate civil penalties.

5.24 **Subd. 7. Registration required.** By March 1, 2021, every veterinarian who prescribes
5.25 controlled substances must register and maintain a program user account with the database.
5.26 Data submitted by a veterinarian or their delegate during the registration application process,
5.27 other than name, license number, and license type, are classified as private pursuant to
5.28 section 13.02, subdivision 12.

5.29 **Subd. 8. Immunity from liability; no requirement to obtain information.** (a) A
5.30 prescribing veterinarian making a report to the database in good faith under this section is
5.31 immune from any civil, criminal, or administrative liability, which might otherwise be
5.32 incurred or imposed as a result of the report, or on the basis that the veterinarian did or did
5.33 not seek, obtain, or use information from the program.

6.1 (b) Nothing in this section requires a veterinarian to obtain information about a patient
6.2 from the program and the veterinarian, if acting in good faith, is immune from any civil,
6.3 criminal, or administrative liability that might otherwise be incurred or imposed for
6.4 requesting, receiving, or using information from the program.

6.5 Subd. 9. **Nonstate funding; appropriation.** The board may seek grants and private
6.6 funds from nonprofit charitable foundations, the federal government, and other sources to
6.7 fund the enhancement and ongoing operation of the monitoring program established under
6.8 this section. Any such funds received must be deposited in a dedicated account in the special
6.9 revenue fund and are appropriated to the board for this purpose. The board must not expend
6.10 funds to enhance the program in a way that conflicts with this section without seeking
6.11 approval from the legislature.

6.12 Sec. 6. **EFFECTIVE DATE.**

6.13 Sections 1 to 5 are effective August 1, 2019, and apply to controlled substances prescribed
6.14 by veterinarians on or after July 1, 2021.