

**SENATE  
STATE OF MINNESOTA  
NINETY-SECOND SESSION**

**S.F. No. 3235**

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DATE  
02/17/2022

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Introduction and first reading  
Referred to Health and Human Services Finance and Policy

OFFICIAL STATUS

1.1 A bill for an act  
1.2 relating to health; authorizing the prescribing and dispensing of drugs for off-label  
1.3 use for the prevention and treatment of COVID-19; proposing coding for new law  
1.4 in Minnesota Statutes, chapter 152.

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

1.6 Section 1. **[152.138] PRESCRIBING AND DISPENSING DRUGS FOR OFF-LABEL**  
1.7 **USE FOR THE PREVENTION AND TREATMENT OF COVID-19.**

1.8 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have  
1.9 the meanings given them.

1.10 (b) "COVID-19" means the disease caused by the coronavirus identified as SARS-CoV-2.

1.11 (c) "Disciplinary action" means any action taken by a health-related licensing board  
1.12 against a licensee, including but not limited to revocation, limitation, suspension, or denial  
1.13 of a license or any other disciplinary action taken by a health-related licensing board against  
1.14 the licensee for unprofessional conduct.

1.15 (d) "Health-related licensing board" has the meaning given in section 214.01, subdivision  
1.16 2.

1.17 (e) "Off-label use" means prescribing a prescription drug for treatments other than those  
1.18 stated in the labeling approved by the United States Food and Drug Administration.

1.19 (f) "Pharmacist" means any person licensed by the Board of Pharmacy under chapter  
1.20 151 to practice pharmacy as defined in section 151.01, subdivision 27.

2.1 (g) "Prescriber" means a physician licensed under chapter 147, a physician assistant  
2.2 licensed under chapter 147A, a dentist licensed under chapter 150A, or an advanced practice  
2.3 registered nurse licensed under sections 148.171 to 148.285.

2.4 Subd. 2. **General provision.** (a) Notwithstanding any other law to the contrary, a  
2.5 prescriber may prescribe and a pharmacist must dispense in accordance with a valid  
2.6 prescription order a prescription drug approved by the United States Food and Drug  
2.7 Administration, including but not limited to hydroxychloroquine sulfate and ivermectin,  
2.8 for off-label use to prevent or treat COVID-19, even if the patient has not been exposed to  
2.9 or tested positive for COVID-19.

2.10 (b) This subdivision does not apply to a controlled substance.

2.11 Subd. 3. **Immunity from civil liability.** Notwithstanding any law to the contrary, a  
2.12 prescriber or pharmacist is immune from civil liability for damages, administrative fines,  
2.13 or penalties for acts, omissions, health care decisions, or the rendering of or the failure to  
2.14 render health care services if the prescriber or pharmacist is acting pursuant to this section.

2.15 Subd. 4. **Professional conduct.** (a) Any recommendation, prescription, use, or opinion  
2.16 of a prescriber or pharmacist related to a treatment for COVID-19, including a treatment  
2.17 that is not recommended or regulated by a health-related licensing board, the Minnesota  
2.18 Department of Health, a professional association, or the United States Food and Drug  
2.19 Administration, must not be considered unprofessional conduct.

2.20 (b) Any action taken by a prescriber or pharmacist pursuant to this section must not be  
2.21 considered unprofessional conduct.

2.22 (c) This subdivision applies retroactively to any disciplinary action occurring on or after  
2.23 March 12, 2020.

2.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.25 Sec. 2. **REVIEW OF DISCIPLINARY ACTION AGAINST PRESCRIBERS AND**  
2.26 **PHARMACISTS.**

2.27 (a) Any health-related licensing board that regulates prescribers or pharmacists shall  
2.28 independently review all complaints and disciplinary action for acts occurring on or after  
2.29 March 12, 2020, through the effective date of Minnesota Statutes, section 152.138. If any  
2.30 health-related licensing board took disciplinary action based on conduct described in  
2.31 Minnesota Statutes, section 152.138, in whole or in part, the board shall reconsider such  
2.32 action and rescind any disciplinary action taken against the licensee if prohibited under  
2.33 Minnesota Statutes, section 151.138.

- 3.1 (b) For purposes of this section, "prescribers" and "disciplinary action" have the meanings
- 3.2 given in Minnesota Statutes, section 152.138.
- 3.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.