

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

HOUSE BILL NO. 1072
(Judiciary Committee)
(At the request of the State Board of Pharmacy)

AN ACT to amend and reenact section 19-02.1-15.1 of the North Dakota Century Code, relating to a criminal penalty for serving as an agent, intermediary, or other entity causing use of the internet to bring together a buyer and seller for dispensing a controlled substance or other specified drug.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-02.1-15.1 of the North Dakota Century Code is amended and reenacted as follows:

19-02.1-15.1. Requirements for dispensing controlled substances and specified drugs - Penalty.

1. As used in this section:
 - a. "Controlled substance" has the meaning set forth in section 19-03.1-01.
 - b. "Deliver, distribute, or dispense by means of the internet" refers, respectively, to delivery, distribution, or dispensing of a controlled substance or specified drug that is caused or facilitated by means of the internet.
 - c. "In-person medical evaluation" means a medical evaluation that is conducted with the patient in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other practitioners, and must include one of the following actions:
 - (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 within twelve months;
 - (3) Another prescribing practitioner practicing within the same health system, group, or clinic as the prescribing practitioner has examined the patient within twelve months;
 - (4) A consulting practitioner to whom the prescribing practitioner has referred the patient has examined the patient within twelve months; 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.
 - d. "Internet" and "practice of telemedicine" have the meanings set forth in the Ryan Haight Online Pharmacy Consumer Protection Act of 2008 [Pub. L. 110-425; 21 U.S.C. 802-803].
 - e. "Specified drugs" mean:
 - (1) A skeletal muscle relaxant containing carisoprodol, chlorphenesin, chlorzoxazone, metaxalone, or methocarbamol;

- (2) A centrally acting analgesic with opioid activity such as tapentadol or tramadol;
 - (3) A drug containing butalbital; and
 - (4) Phosphodiesterase type 5 inhibitors when used to treat erectile dysfunction.
- f. "Valid prescription" means a prescription that is issued for a legitimate medical purpose in the usual course of professional practice by a practitioner who has conducted an in-person medical evaluation of the patient.
2. A controlled substance or specified drug may not be delivered, distributed, or dispensed without a valid prescription. It is also unlawful for a person to knowingly or intentionally aid or abet in these activities. An example of such an activity includes knowingly or intentionally serving as an agent, intermediary, or other entity that causes the internet to be used to bring together a buyer and seller to engage in the dispensing of a controlled substance or specified drug.
 3. This section applies to the delivery, distribution, and dispensing of a controlled substance or specified drug by means of the internet or any other electronic means from a location whether within or outside this state to a person or an address in this state.
 4. Nothing in this section may be construed:
 - a. To apply to the delivery, distribution, or dispensing of a controlled substance or specified drug by a practitioner engaged in the practice of telemedicine in accordance with applicable federal and state laws;
 - b. To prohibit or limit the use of electronic prescriptions for a controlled substance or any other drug;
 - c. To prohibit a physician from prescribing a controlled substance or specified drug through the use of a guideline or protocol established with an allied health professional, resident, or medical student under the direction and supervision of the physician;
 - d. To prohibit a practitioner from issuing a prescription or dispensing a controlled substance or specified drug in accordance with administrative rules adopted by a state agency authorizing expedited partner therapy in the management of a sexually transmitted disease; or
 - e. To limit prescription, administration, or dispensing of a controlled substance or specified drug through a distribution mechanism approved by the state health officer 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.
 5. A person who violates this section is guilty of a class C felony.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1072.

House Vote: Yeas 91 Nays 0 Absent 3

Senate Vote: Yeas 44 Nays 3 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State