

Sixty-third  
Legislative Assembly  
of North Dakota

ENGROSSED HOUSE BILL NO. 1072

Introduced by

Judiciary Committee

(At the request of the State Board of Pharmacy)

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

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

8 **19-02.1-15.1. Requirements for dispensing controlled substances and specified**  
9 **drugs - Penalty.**

10 1. As used in this section:

11 a. "Controlled substance" has the meaning set forth in section 19-03.1-01.

12 b. "Deliver, distribute, or dispense by means of the internet" refers, respectively, to  
13 delivery, distribution, or dispensing of a controlled substance or specified drug  
14 that is caused or facilitated by means of the internet.

15 c. "In-person medical evaluation" means a medical evaluation that is conducted  
16 with the patient in the physical presence of the practitioner, without regard to  
17 whether portions of the evaluation are conducted by other practitioners, and must  
18 include one of the following actions:

19 (1) The prescribing practitioner examines the patient at the time the prescription  
20 or drug order is issued;

21 (2) The prescribing practitioner has performed a prior examination of the patient  
22 within twelve months;

- 1 (3) Another prescribing practitioner practicing within the same health system,  
2 group, or clinic as the prescribing practitioner has examined the patient  
3 within twelve months;
- 4 (4) A consulting practitioner to whom the prescribing practitioner has referred  
5 the patient has examined the patient within twelve months; or
- 6 (5) The referring practitioner has performed an examination in the case of a  
7 consultant practitioner issuing a prescription or drug order when providing  
8 services by means of telemedicine.
- 9 d. "Internet" and "practice of telemedicine" have the meanings set forth in the Ryan  
10 Haight Online Pharmacy Consumer Protection Act of 2008 [Pub. L. 110-425; 21  
11 U.S.C. 802-803].
- 12 e. "Specified drugs" mean:
- 13 (1) A skeletal muscle relaxant containing carisoprodol, chlorphenesin,  
14 chlorzoxazone, metaxalone, or methocarbamol;
- 15 (2) A centrally acting analgesic with opioid activity such as tapentadol or  
16 tramadol;
- 17 (3) A drug containing butalbital; and
- 18 (4) Phosphodiesterase type 5 inhibitors when used to treat erectile dysfunction.
- 19 f. "Valid prescription" means a prescription that is issued for a legitimate medical  
20 purpose in the usual course of professional practice by a practitioner who has  
21 conducted an in-person medical evaluation of the patient.
- 22 2. A controlled substance or specified drug may not be delivered, distributed, or  
23 dispensed without a valid prescription. It is also unlawful for a person to knowingly or  
24 intentionally aid or abet in these activities. An example of such an activity includes  
25 knowingly or intentionally serving as an agent, intermediary, or other entity that causes  
26 the internet to be used to bring together a buyer and seller to engage in the dispensing  
27 of a controlled substance or specified drug.
- 28 3. This section applies to the delivery, distribution, and dispensing of a controlled  
29 substance or specified drug by means of the internet or any other electronic means  
30 from a location whether within or outside this state to a person or an address in this  
31 state.

- 1       4. Nothing in this section may be construed:
  - 2           a. To apply to the delivery, distribution, or dispensing of a controlled substance or
  - 3           specified drug by a practitioner engaged in the practice of telemedicine in
  - 4           accordance with applicable federal and state laws;
  - 5           b. To prohibit or limit the use of electronic prescriptions for a controlled substance or
  - 6           any other drug;
  - 7           c. To prohibit a physician from prescribing a controlled substance or specified drug
  - 8           through the use of a guideline or protocol established with an allied health
  - 9           professional, resident, or medical student under the direction and supervision of
  - 10          the physician;
  - 11          d. To prohibit a practitioner from issuing a prescription or dispensing a controlled
  - 12          substance or specified drug in accordance with administrative rules adopted by a
  - 13          state agency authorizing expedited partner therapy in the management of a
  - 14          sexually transmitted disease; or
  - 15          e. To limit prescription, administration, or dispensing of a controlled substance or
  - 16          specified drug through a distribution mechanism approved by the state health
  - 17          officer in order to prevent, mitigate, or treat a pandemic illness, infectious disease
  - 18          outbreak, or intentional or accidental release of a biological, chemical, or
  - 19          radiological agent.
- 20       5. A person who violates this section is guilty of a class C felony.