State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 1440

02/20/2017 Authored by Baker, Hamilton, Schomacker, Poston, Kresha and others
The bill was read for the first time and referred to the Committee on Health and Human Services Reform
03/19/2018 Adoption of Report: Amended and re-referred to the Committee on Civil Law and Data Practices Policy
03/21/2018 Adoption of Report: Amended and re-referred to the Committee on Government Operations and Elections Policy
03/26/2018 Adoption of Report: Amended and re-referred to the Committee on Health and Human Services Finance
04/24/2018 Adoption of Report: Amended and re-referred to the Committee on Ways and Means
Pursuant to Joint Rule 2.03, re-referred to the Committee on Rules and Legislative Administration
05/03/2018 Adoption of Report: Re-referred to the Committee on Ways and Means
Joint Rule 2.03 has been waived for any subsequent committee action on this bill

A bill for an act

relating to health; establishing the Opioid Addiction Prevention and Treatment Advisory Council; establishing a special revenue fund for opioid addiction prevention and treatment; modifying substance use disorder treatment provider requirements; appropriating money; requiring reports; amending Minnesota Statutes 2017 Supplement, section 245G.05, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 151.

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

ARTICLE 1

OPIOID ADDICTION PREVENTION AND TREATMENT

Section 1. **[151.255] OPIOID ADDICTION PREVENTION AND TREATMENT ADVISORY COUNCIL.**

Subdivision 1. **Establishment of advisory council.** (a) The Opioid Addiction Prevention and Treatment Advisory Council is established to confront the opioid addiction and overdose epidemic in this state and focus on:

(1) prevention and education, including public education and awareness for adults and youth, prescriber education, and the development and sustainability of opioid overdose prevention programs;

(2) the expansion and enhancement of a continuum of care for opioid-related substance use disorders, including primary prevention, early intervention, treatment, and recovery services; and

(3) services to ensure overdose prevention as well as public safety and community well-being, including expanding access to naloxone and providing social services to families affected by the opioid overdose epidemic.

(b) The council shall:

(1) review local, state, and federal initiatives and activities related to education, prevention, and services for individuals and families experiencing and affected by opioid addiction;

(2) establish priorities and actions to address the state's opioid epidemic for the purpose of allocating funds;

(3) ensure optimal allocation of available funding and alignment of existing state and federal funding to achieve the greatest impact and ensure a coordinated state effort;

(4) develop criteria and procedures to be used in awarding grants and allocating available funds from the opioid addiction prevention and treatment account; and

(5) develop measurable outcomes to determine the effectiveness of the funds allocated.

(c) The council shall make recommendations on grant and funding options for the funds annually appropriated to the commissioner of human services from the opioid addiction prevention and treatment account. The options for funding may include, but are not limited to: prescriber education; the development and sustainability of prevention programs; the creation of a continuum of care for opioid-related substance abuse disorders, including primary prevention, early intervention, treatment, and recovery services; and additional funding for child protection case management services for children and families affected by opioid addiction. The council shall submit recommendations for funding options to the commissioner of human services and to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance by March 1 of each year, beginning March 1, 2019.

Subd. 2. **Membership.** (a) The council shall consist of 19 members appointed by the commissioner of human services, except as otherwise specified:

(1) two members of the house of representatives, one from the majority party appointed by the speaker of the house and one from the minority party appointed by the minority leader;

(2) two members of the senate, one from the majority party appointed by the senate majority leader and one from the minority party appointed by the senate minority leader;

(3) one member appointed by the Board of Pharmacy;

(4) one member who is a medical doctor appointed by the Minnesota chapter of the American College of Emergency Physicians;

(5) one member representing programs licensed under chapter 245G that specialize in serving people with opioid use disorders;

(6) one member who is a medical doctor appointed by the Minnesota Hospital Association;

(7) one member who is a medical doctor appointed by the Minnesota Society of Addiction Medicine;

(8) one member representing a pain psychologist;

(9) one member representing a nonprofit organization that operates programs related to opioid awareness, prescriber education, and overdose prevention;

(10) one member appointed by the Minnesota Ambulance Association;

(11) one member representing the Minnesota courts who is a judge or law enforcement officer;

(12) one public member who is a Minnesota resident and who has been impacted by the opioid epidemic;

(13) one member representing an Indian tribe;

(14) the commissioner of human services or designee;

(15) the commissioner of health or designee;

(16) one advanced practice registered nurse appointed by the Board of Nursing; and

(17) one member representing a local health department.

(b) The commissioner shall coordinate appointments to provide geographic diversity and shall ensure that at least one-half of council members reside outside of the seven-county metropolitan area.

(c) The council is governed by section 15.059, except that members of the council shall receive no compensation other than reimbursement for expenses. Notwithstanding section 15.059, subdivision 6, the council shall not expire.

(d) The chair shall convene the council at least quarterly, and may convene other meetings as necessary. The chair shall convene meetings at different locations in the state to provide

geographic access and shall ensure that at least one-half of the meetings are held at locations outside of the seven-county metropolitan area.

(e) The commissioner of human services shall provide staff and administrative services for the advisory council.

(f) The council is subject to chapter 13D.

Sec. 2. **[151.256] OPIOID ADDICTION PREVENTION AND TREATMENT ACCOUNT.**

Subdivision 1. **Establishment.** The opioid addiction prevention and treatment account is established in the special revenue fund in the state treasury. All state appropriations to the account, and any federal funds or grant dollars received for the prevention and treatment of opioid addiction, shall be deposited into the account.

Subd. 2. **Use of account funds.** (a) For fiscal year 2019, money in the account is appropriated as specified in section 3.

(b) For fiscal year 2020 and subsequent fiscal years, money in the opioid addiction prevention and treatment account is appropriated to the commissioner of human services, to be awarded, in consultation with the Opioid Addiction Prevention and Treatment Advisory Council, as grants or as other funding as determined appropriate to address the opioid epidemic in the state. Each recipient of grants or funding shall report to the commissioner and the advisory council on how the funds were spent and the outcomes achieved, in the form and manner specified by the commissioner.

Subd. 3. **Annual report.** Beginning January 15, 2019, and each January 15 thereafter, the commissioner, in consultation with the Opioid Addiction Prevention and Treatment Advisory Council, shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance on the grants and funds awarded under this section and section 3 and the outcomes achieved. Each report must also identify those instances for which the commissioner did not follow the recommendations of the advisory council and the commissioner's rationale for taking this action.

Sec. 3. **APPROPRIATION; OPIOID ADDICTION PREVENTION AND TREATMENT.**

Subdivision 1. **Commissioner of human services.** (a) For fiscal year 2019, $16,500,000 is transferred from the general fund to the opioid addiction prevention and treatment account.

This money is appropriated from the account to the commissioner of human services. The commissioner, in consultation with the Opioid Addiction Prevention and Treatment Advisory Council, shall distribute the appropriation according to this subdivision.

(b) At least 30 percent of the available funds shall be used for county social services agencies to provide services to children in placement who are affected by opioid addiction. The commissioner shall distribute the money allocated under this subdivision proportionally to counties based on the number of open child protection case management cases in the county using data from the previous calendar year.

(c) At least ten percent of the available funds shall be used to provide grants to county boards to fund programs and services to prevent and treat opioid addiction.

(d) The commissioner may use up to five percent of the available funds for administration of this section and to provide staff and administrative services for the Opioid Addiction Prevention and Treatment Advisory Council.

(e) The remaining appropriation must be used for the following purposes:

(1) providing grants to nonprofit organizations, including grants to regional emergency medical services programs regulated under Minnesota Statutes, section 144E.50, for the purpose of expanding prescriber education and public awareness and the purchase of opiate antagonists for distribution to the health care and public safety communities; and

(2) providing a five percent increase in medical assistance payment rates for substance use disorder services under Minnesota Statutes, section 254B.05, subdivision 5.

(f) Each recipient of grants or funding shall report to the commissioner and the Opioid Addiction Prevention and Treatment Advisory Council on how the funds were spent and the outcomes achieved, in the form and manner specified by the commissioner.

(g) Of the amount transferred in paragraph (a), $15,000,000 shall remain as base funding for the opioid addiction prevention and treatment account for fiscal year 2020 and subsequent fiscal years.

Subd. 2. **Board of Pharmacy.** For fiscal year 2019, $3,500,000 from the general fund is transferred to the opioid addiction prevention and treatment account. This money is appropriated from the account to the Board of Pharmacy, to integrate the prescription monitoring program database with electronic health records on a statewide basis. The integration of access to the prescription monitoring database with electronic health records shall not modify any requirements or procedures in Minnesota Statutes, section 152.126, regarding the information that must be reported to the database, who can access the database

and for what purpose, and the data classification of information in the database, and shall not require a prescriber to access the database prior to issuing a prescription for a controlled substance. The board may use this funding to contract with a vendor for technical assistance, provide grants to health care providers, and to make any necessary technological modifications to the prescription monitoring program database. This funding does not cancel and is available until expended.

Sec. 4. **APPROPRIATION; BEYOND OPIOIDS PROJECT.**

$1,600,000 in fiscal year 2018 is appropriated from the general fund to the commissioner of administration for grants to Twin Cities Public Television and to the Association of Minnesota Public Educational Radio Stations to produce the Beyond Opioids Project in collaboration with the stations of the Minnesota Public Television Association. Seventy percent of this funding shall go to Twin Cities Public Television and 30 percent shall go to the Association of Minnesota Public Educational Radio Stations. This appropriation is available until June 30, 2019.

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

Sec. 5. **ADVISORY COUNCIL FIRST MEETING.**

The commissioner of human services shall convene the first meeting of the Opioid Addiction Prevention and Treatment Advisory Council established under Minnesota Statutes, section 151.255, no later than October 1, 2018. The members shall elect a chair at the first meeting.

ARTICLE 2

SUBSTANCE USE DISORDER TREATMENT PROVIDER REQUIREMENTS

Section 1. Minnesota Statutes 2017 Supplement, section 245G.05, subdivision 1, is amended to read:

Subdivision 1. **Comprehensive assessment.** (a) A comprehensive assessment of the client's substance use disorder must be administered face-to-face by an alcohol and drug counselor within three calendar days after service initiation for a residential program or during the initial session for all other programs. A program may permit a staff person who is not qualified as an alcohol and drug counselor to interview the client in areas of the comprehensive assessment that are otherwise within the competencies and scope of practice of that staff person, and an alcohol and drug counselor does not need to be face-to-face with the client during this interview. The alcohol and drug counselor must review all of the

information contained in a comprehensive assessment and, by signature, confirm the information is accurate and complete and meets the requirements for the comprehensive assessment. If the comprehensive assessment is not completed during the initial session, the client-centered reason for the delay must be documented in the client's file and the planned completion date. If the client received a comprehensive assessment that authorized the treatment service, an alcohol and drug counselor must review the assessment to determine compliance with this subdivision, including applicable timelines. If available, the alcohol and drug counselor may use current information provided by a referring agency or other source as a supplement. Information gathered more than 45 days before the date of admission is not considered current. The comprehensive assessment must include sufficient information to complete the assessment summary according to subdivision 2 and the individual treatment plan according to section 245G.06. The comprehensive assessment must include information about the client's needs that relate to substance use and personal strengths that support recovery, including:

(1) age, sex, cultural background, sexual orientation, living situation, economic status, and level of education;

(2) circumstances of service initiation;

(3) previous attempts at treatment for substance misuse or substance use disorder, compulsive gambling, or mental illness;

(4) substance use history including amounts and types of substances used, frequency and duration of use, periods of abstinence, and circumstances of relapse, if any. For each substance used within the previous 30 days, the information must include the date of the most recent use and previous withdrawal symptoms;

(5) specific problem behaviors exhibited by the client when under the influence of substances;

(6) family status, family history, including history or presence of physical or sexual abuse, level of family support, and substance misuse or substance use disorder of a family member or significant other;

(7) physical concerns or diagnoses, the severity of the concerns, and whether the concerns are being addressed by a health care professional;

(8) mental health history and psychiatric status, including symptoms, disability, current treatment supports, and psychotropic medication needed to maintain stability; the assessment

must utilize screening tools approved by the commissioner pursuant to section 245.4863 to identify whether the client screens positive for co-occurring disorders;

(9) arrests and legal interventions related to substance use;

(10) ability to function appropriately in work and educational settings;

(11) ability to understand written treatment materials, including rules and the client's rights;

(12) risk-taking behavior, including behavior that puts the client at risk of exposure to blood-borne or sexually transmitted diseases;

(13) social network in relation to expected support for recovery and leisure time activities that are associated with substance use;

(14) whether the client is pregnant and, if so, the health of the unborn child and the client's current involvement in prenatal care;

(15) whether the client recognizes problems related to substance use and is willing to follow treatment recommendations; and

(16) collateral information. If the assessor gathered sufficient information from the referral source or the client to apply the criteria in Minnesota Rules, parts 9530.6620 and 9530.6622, a collateral contact is not required.

(b) If the client is identified as having opioid use disorder or seeking treatment for opioid use disorder, the program must provide educational information to the client concerning:

(1) risks for opioid use disorder and dependence;

(2) treatment options, including the use of a medication for opioid use disorder;

(3) the risk of and recognizing opioid overdose; and

(4) the use, availability, and administration of naloxone to respond to opioid overdose.

(c) The commissioner shall develop educational materials that are supported by research and updated periodically. The license holder must use the educational materials that are approved by the commissioner to comply with this requirement.

(d) If the comprehensive assessment is completed to authorize treatment service for the client, at the earliest opportunity during the assessment interview the assessor shall determine if:

(1) the client is in severe withdrawal and likely to be a danger to self or others;

(2) the client has severe medical problems that require immediate attention; or

(3) the client has severe emotional or behavioral symptoms that place the client or others at risk of harm.

If one or more of the conditions in clauses (1) to (3) are present, the assessor must end the assessment interview and follow the procedures in the program's medical services plan under section 245G.08, subdivision 2, to help the client obtain the appropriate services. The assessment interview may resume when the condition is resolved.

APPENDIX
Article locations in HF1440-4