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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3095

03/23/2023 Authored by Bierman and Baker
The bill was read for the first time and referred to the Committee on Health Finance and Policy

1.1 A bill for an act
1.2 relating to human services; modifying the operation of the opioid prescribing
1.3 improvement program; establishing a waiver process; providing a contingent
1.4 sunset; amending Minnesota Statutes 2022, section 256B.0638, subdivision 4, by
1.5 adding subdivisions.

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

1.7 Section 1. Minnesota Statutes 2022, section 256B.0638, subdivision 4, is amended to read:

1.8 Subd. 4. Program components. (a) The working group shall recommend to the
1.9 commissioners the components of the statewide opioid prescribing improvement program,
1.10 including, but not limited to, the following:

1.11 (1) developing criteria for opioid prescribing protocols for prescribers of the same or
1.12 similar medical specialty treating a similar group of patients, including:

1.13 (i) prescribing for the interval of up to four days immediately after an acute painful
1.14 event;

1.15 (ii) prescribing for the interval of up to 45 days after an acute painful event; and

1.16 (iii) prescribing for chronic pain, which for purposes of this program means pain lasting
1.17 longer than 45 days after an acute painful event;

1.18 (2) developing sentinel measures;

1.19 (3) developing educational resources for opioid prescribers about communicating with
1.20 patients about pain management and the use of opioids to treat pain;

1.21 (4) developing opioid quality improvement standard thresholds and opioid disenrollment
1.22 standards for opioid prescribers and provider groups. In developing opioid disenrollment

2.1 standards, the standards may be described in terms of the length of time in which prescribing
2.2 practices fall outside community standards and the nature and amount of opioid prescribing
2.3 that fall outside community standards; and

2.4 (5) addressing other program issues as determined by the commissioners.

2.5 (b) The opioid prescribing protocols shall not apply to opioids prescribed for patients
2.6 who are experiencing intractable pain, as defined in section 152.125, subdivision 1, paragraph
2.7 (c), or pain caused by a malignant condition or who are receiving hospice care, or to opioids
2.8 prescribed for substance use disorder treatment with medications for opioid use disorder.

2.9 (c) All opioid prescribers who prescribe opioids to Minnesota health care program
2.10 enrollees must participate in the program in accordance with subdivision 5. Any other
2.11 prescriber who prescribes opioids may comply with the components of this program described
2.12 in paragraph (a) on a voluntary basis.

2.13 Sec. 2. Minnesota Statutes 2022, section 256B.0638, is amended by adding a subdivision
2.14 to read:

2.15 Subd. 7. **Waiver for certain provider groups.** (a) This section does not apply to
2.16 prescribers employed by, or under contract or affiliated with, a provider group that has
2.17 received a waiver from the commissioner from the requirements of this section.

2.18 (b) The commissioner, in consultation with opioid prescribers, shall develop waiver
2.19 criteria for provider groups, and shall make waivers available beginning July 1, 2023. In
2.20 granting waivers, the commissioner shall consider whether the medical director of the
2.21 provider group, and a majority of the practitioners within a provider group, have specialty
2.22 training, fellowship training, or experience in treating chronic pain.

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

2.24 Sec. 3. Minnesota Statutes 2022, section 256B.0638, is amended by adding a subdivision
2.25 to read:

2.26 Subd. 8. **Contingent sunset.** (a) This section sunsets July 1, 2024, if the commissioner
2.27 of management and budget, after consultation with the Board of Pharmacy, certifies to the
2.28 revisor of statutes by June 1, 2024, that the rate of opioid prescribing for enrollees in the
2.29 medical assistance and MinnesotaCare programs for the period of January 21, 2022, through
2.30 December 31, 2023, does not exceed the rate of opioid prescribing for private sector enrollees
2.31 for that same time period by more than ten percent.

- 3.1 (b) The Board of Pharmacy shall provide technical assistance to the commissioner of
3.2 management and budget, and may access the prescription monitoring program database
3.3 under section 152.126 when providing technical assistance.