State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 400

01/28/2019 Authored by Olson, Baker, Winkler, Koegel, Halverson and others
The bill was read for the first time and referred to the Committee on Health and Human Services Policy
01/31/2019 Adoption of Report: Amended and re-referred to the Committee on Commerce
02/07/2019 Adoption of Report: Amended and re-referred to the Committee on Government Operations
02/14/2019 Adoption of Report: Amended and re-referred to the Committee on Ways and Means

A bill for an act

relating to health; establishing the Opioid Addiction Advisory Council; establishing the opioid stewardship account; establishing an opiate product registration fee; modifying provisions related to opioid addiction prevention, education, intervention, treatment, and recovery; requiring reports; appropriating money; amending Minnesota Statutes 2018, sections 16A.151, subdivision 2; 145.9269, subdivision 1; 151.252, subdivision 1; 151.37, subdivision 12; 151.47, by adding a subdivision; 151.71, by adding a subdivision; 152.105, subdivision 2; 152.11, subdivisions 2d, 4, by adding subdivisions; 214.12, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 62Q; 144; 145; 151.

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

ARTICLE 1

OPIOID PRODUCT STEWARDSHIP

Section 1. Minnesota Statutes 2018, section 16A.151, subdivision 2, is amended to read:

Subd. 2. **Exceptions.** (a) If a state official litigates or settles a matter on behalf of specific injured persons or entities, this section does not prohibit distribution of money to the specific injured persons or entities on whose behalf the litigation or settlement efforts were initiated. If money recovered on behalf of injured persons or entities cannot reasonably be distributed to those persons or entities because they cannot readily be located or identified or because the cost of distributing the money would outweigh the benefit to the persons or entities, the money must be paid into the general fund.

(b) Money recovered on behalf of a fund in the state treasury other than the general fund may be deposited in that fund.

(c) This section does not prohibit a state official from distributing money to a person or entity other than the state in litigation or potential litigation in which the state is a defendant or potential defendant.

(d) State agencies may accept funds as directed by a federal court for any restitution or monetary penalty under United States Code, title 18, section 3663(a)(3) or United States Code, title 18, section 3663A(a)(3). Funds received must be deposited in a special revenue account and are appropriated to the commissioner of the agency for the purpose as directed by the federal court.

(e) Tobacco settlement revenues as defined in section 16A.98, subdivision 1, paragraph (t), may be deposited as provided in section 16A.98, subdivision 12.

(f) Any revenues received by the state from the settlement of legal proceedings against opioid manufacturers (State of Minnesota by its Attorney General Keith Ellison v. Purdue Pharma, LP, et al., No. 27-CV-10788, Fourth Judicial District) shall be deposited into the opioid stewardship account established under section 151.256.

Sec. 2. Minnesota Statutes 2018, section 151.252, subdivision 1, is amended to read:

Subdivision 1. **Requirements.** (a) No person shall act as a drug manufacturer without first obtaining a license from the board and paying any applicable fee specified in section 151.065.

(b) In addition to the license required under paragraph (a), a manufacturer of a Schedule II through IV opiate controlled substance must pay the applicable registration fee specified in section 151.77, subdivision 3, by June 1 of each year, beginning June 1, 2020. In the event of a change of ownership of the manufacturer, the new owner must pay the registration fee specified under section 151.77, subdivision 3, that the original owner would have been assessed had it retained ownership. The board may assess a late fee of ten percent per month for every portion of a month that the registration fee is paid after the due date.

~~(b)~~ (c) Application for a drug manufacturer license under this section shall be made in a manner specified by the board.

~~(c)~~ (d) No license shall be issued or renewed for a drug manufacturer unless the applicant agrees to operate in a manner prescribed by federal and state law and according to Minnesota Rules.

~~(d)~~ (e) No license shall be issued or renewed for a drug manufacturer that is required to be registered pursuant to United States Code, title 21, section 360, unless the applicant supplies the board with proof of registration. The board may establish by rule the standards

for licensure of drug manufacturers that are not required to be registered under United States Code, title 21, section 360.

~~(e)~~ (f) No license shall be issued or renewed for a drug manufacturer that is required to be licensed or registered by the state in which it is physically located unless the applicant supplies the board with proof of licensure or registration. The board may establish, by rule, standards for the licensure of a drug manufacturer that is not required to be licensed or registered by the state in which it is physically located.

~~(f)~~ (g) The board shall require a separate license for each facility located within the state at which drug manufacturing occurs and for each facility located outside of the state at which drugs that are shipped into the state are manufactured.

~~(g)~~ (h) The board shall not issue an initial or renewed license for a drug manufacturing facility unless the facility passes an inspection conducted by an authorized representative of the board. In the case of a drug manufacturing facility located outside of the state, the board may require the applicant to pay the cost of the inspection, in addition to the license fee in section 151.065, unless the applicant furnishes the board with a report, issued by the appropriate regulatory agency of the state in which the facility is located or by the United States Food and Drug Administration, of an inspection that has occurred within the 24 months immediately preceding receipt of the license application by the board. The board may deny licensure unless the applicant submits documentation satisfactory to the board that any deficiencies noted in an inspection report have been corrected.

Sec. 3. **[151.255] OPIOID ADDICTION ADVISORY COUNCIL.**

Subdivision 1. **Establishment of advisory council.** (a) The Opioid Addiction 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 substance use disorder 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;

(3) training on the treatment of opioid addiction, including the use of all FDA-approved opioid addiction medications, detoxification, relapse prevention, patient assessment,

individual treatment planning, counseling, recovery supports, diversion control, and other best practices; and

(4) services to ensure overdose prevention as well as public safety and community well-being, including expanding access to FDA-approved opioid addiction medications and providing adult protective services and other social services to individuals and 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 available funding is aligned with 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 stewardship 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 stewardship 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, 2020.

Subd. 2. **Membership.** (a) The council shall consist of 20 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 of the house of representatives;

(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 Medical Association;

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

(6) one member representing the National Alliance on Mental Illness (NAMI);

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

(8) one member representing professionals providing alternative pain management therapies;

(9) the commissioner of education or a designee;

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

(11) one member representing the Minnesota Hospital Association;

(12) one member representing an Indian tribe;

(13) the commissioner of human services or a designee;

(14) the commissioner of corrections or a designee;

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

(16) the commissioner of health or a designee;

(17) one member representing a local health department; and

(18) one member with personal experience of opioid addiction, representing a nonprofit entity specializing in providing support to persons recovering from substance use disorder.

(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 on a quarterly basis 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. 4. **[151.256] OPIOID STEWARDSHIP ACCOUNT.**

Subdivision 1. **Establishment.** The opioid stewardship account is established in the state government special revenue fund in the state treasury. The registration fees collected by the Board of Pharmacy under section 151.77 shall be deposited into the account. All state appropriations to the account shall be deposited into the account.

Subd. 2. **Use of account funds.** (a) For fiscal year 2020, money in the account is appropriated as specified in article 5.

(b) For fiscal year 2021 and subsequent fiscal years, money in the opioid stewardship account is appropriated to the commissioner of human services, to be distributed, in consultation with the Opioid Addiction Advisory Council, as grants or other funding, or as transfers to the Department of Health and other state agencies, as determined appropriate to address the opioid epidemic in the state. The commissioner may retain up to five percent of the appropriation for administrative costs of implementing this paragraph and for administrative costs related to the Opioid Addiction Advisory Council. The commissioner, in consultation with the advisory council, may provide additional appropriations for the initiatives funded in article 5. 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, 2020, and each January 15 thereafter, the commissioner, in consultation with the Opioid Addiction 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 article 5 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. 5. Minnesota Statutes 2018, section 151.47, is amended by adding a subdivision to read:

Subd. 1a. **Controlled substance wholesale drug distributor requirements.** In addition to the license required under subdivision 1, a wholesale drug distributor distributing a Schedule II through IV opiate controlled substance must pay the applicable registration fee specified in section 151.77, subdivision 4, by June 1 of each year beginning June 1, 2020. In the event of a change in ownership of the wholesale drug distributor, the new owner must pay the registration fee specified in section 151.77, subdivision 4, that the original owner would have been assessed had it retained ownership. The board may assess a late fee of ten percent per month for every portion of a month that the registration fee is paid after the due date.

Sec. 6. **[151.77] OPIATE PRODUCT REGISTRATION FEE.**

Subdivision 1. **Definition.** For purposes of this section, the following terms have the meanings given them in this subdivision.

(1) "manufacturer" means a manufacturer licensed under section 151.252 that is engaged in the manufacturing of an opiate;

(2) "opiate" means any opiate-containing controlled substance listed in section 152.02, subdivisions 3 to 5, that is distributed, delivered, sold, or dispensed into or within this state; and

(3) "wholesaler" means a wholesale drug distributor who is licensed under section 151.47, and is engaged in the wholesale drug distribution of an opiate.

Subd. 2. **Reporting requirements.** (a) By March 1 of each year, beginning March 1, 2020, each manufacturer and each wholesale drug distributor must report to the board every sale, delivery, or other distribution within or into this state of any opiate that is made to any practitioner, pharmacy, hospital, veterinary hospital, or other person who is permitted by section 151.37 to possess controlled substances for administration or dispensing to patients that occurred during the previous calendar year. Reporting must be in the automation of reports and consolidated orders system format unless otherwise specified by the board. If a manufacturer or wholesaler fails to provide information required under this paragraph on a timely basis, the board may assess an administrative penalty of $500 per day. This penalty shall not be considered a form of disciplinary action.

(b) By March 1 of each year, beginning March 1, 2020, each owner of a pharmacy with at least one location within this state must report to the board the intracompany delivery or

distribution into this state of any opiate, to the extent that those deliveries and distributions are not reported to the board by a licensed wholesale drug distributor owned by, under contract to, or otherwise operating on behalf of the owner of the pharmacy. Reporting must be in the manner and format specified by the board for deliveries and distributions that occurred during the previous calendar year. The report must include the name of the manufacturer or wholesaler from which the owner of the pharmacy ultimately purchased the opiate, and the amount and date that the purchases occurred.

Subd. 3. **Determination of each manufacturer's registration fee.** (a) The board shall annually assess manufacturer registration fees that in an aggregate amount total $12,000,000. The board shall determine each manufacturer's annual registration fee that is prorated and based on the manufacturer's percentage of the total number of units reported to the board under subdivision 2.

(b) By April 1 of each year, beginning April 1, 2020, the board shall notify each manufacturer of the annual amount of the manufacturer's registration fee to be paid by June 1, in accordance with section 151.252, subdivision 1, paragraph (b).

(c) In conjunction with the data reported under this section, and notwithstanding section 152.126, subdivision 6, the board may use the data reported under section 152.126, subdivision 4, to determine the manufacturer registration fees required under this subdivision.

(d) A manufacturer may dispute the registration fee as determined by the board no later than 30 days after the date of notification; however, the manufacturer must still remit the fee as required by section 151.252, subdivision 1, paragraph (b). The dispute must be filed with the board in the manner and using the forms specified by the board. A manufacturer must submit, with the required forms, data satisfactory to the board that demonstrates that the registration fee was incorrect. The board must make a decision concerning a dispute no later than 60 days after receiving the required dispute forms. If the board determines that the manufacturer has satisfactorily demonstrated that the original fee was incorrect, the board must adjust the manufacturer's registration fee due the next year by the amount that is in excess of the correct fee that should have been paid.

Subd. 4. **Determination of each wholesaler's registration fee.** (a) The board shall annually assess wholesaler registration fees that in an aggregate amount total $8,000,000. The board shall determine each wholesaler's annual registration fee that is prorated and based on the wholesaler's percentage of the total number of units reported to the board under subdivision 2. This paragraph does not apply to a wholesaler if the wholesaler is also licensed as a drug manufacturer under section 151.252.

(b) By April 1 of each year, beginning April 1, 2020, the board shall notify each wholesaler of the annual amount of the wholesaler's registration fee to be paid by June 1, in accordance with section 151.47, subdivision 1a.

(c) A wholesaler may dispute the registration fee as determined by the board no later than 30 days after the date of notification. However, the wholesaler must still remit the fee as required by section 151.47, subdivision 1a. The dispute must be filed with the board in the manner and using the forms specified by the board. A wholesaler must submit, with the required forms, data satisfactory to the board that demonstrates that the registration fee was incorrect. The board must make a decision concerning a dispute no later than 60 days after receiving the required dispute forms. If the board determines that the wholesaler has satisfactorily demonstrated that the original fee was incorrect, the board must adjust the wholesaler's registration fee due the next year by the amount that is in excess of the correct fee that should have been paid.

Subd. 5. **Report.** (a) The Board of Pharmacy shall evaluate the registration fee on drug manufacturers and wholesalers established under this section, and whether the fee has impacted the prescribing practices for opiates by reducing the number of opiate prescriptions issued during calendar years 2020, 2021, and 2022, to the extent the board has the ability to effectively identify a correlation. Notwithstanding section 152.126, subdivision 6, the board may access the data reported under section 152.126, subdivision 4, to conduct this evaluation.

(b) The board shall submit the results of its evaluation to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance by March 1, 2023.

Subd. 6. **Legislative review.** The legislature shall review the reports from the Opioid Addiction Advisory Council under section 151.255, subdivision 1, paragraph (c), the report from the Board of Pharmacy under subdivision 5, and any other relevant report or information related to the opioid crisis in Minnesota, to make a determination about whether the opiate product registration fee assessed under this section should continue beyond July 1, 2023.

Sec. 7. **ADVISORY COUNCIL FIRST MEETING.**

The commissioner of human services shall convene the first meeting of the Opioid Addiction Advisory Council established under Minnesota Statutes, section 151.255, no later than October 1, 2019. The members shall elect a chair at the first meeting.

ARTICLE 2
HEALTH PLAN COMPANY REQUIREMENTS

Section 1. **[62Q.528] COVERAGE FOR PAIN MANAGEMENT SERVICES.**

All health plans must cover acupuncture services for the treatment of pain and ongoing pain management when those services are performed by an individual who is licensed as:

(1) an acupuncture practitioner under chapter 147B; or

(2) a chiropractor under chapter 148.

EFFECTIVE DATE. This section is effective January 1, 2020, and applies to health plans offered, issued, or renewed to a Minnesota resident on or after that date.

Sec. 2. Minnesota Statutes 2018, section 151.71, is amended by adding a subdivision to read:

Subd. 3. **Lowest cost to consumers.** (a) A health plan company or pharmacy benefits manager shall not require an individual to make a payment at the point of sale for a covered prescription medication in an amount greater than the allowable cost to consumers, as defined in paragraph (b).

(b) For purposes of paragraph (a), "allowable cost to consumers" means the lowest of: (1) the applicable co-payment for the prescription medication; or (2) the amount an individual would pay for the prescription medication if the individual purchased the prescription medication without using a health plan benefit.

ARTICLE 3
PREVENTION AND EDUCATION

Section 1. **[144.348] VOLUNTARY NONOPIOID DIRECTIVE.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following definitions apply.

(b) "Commissioner" means the commissioner of health.

(c) "Opioid" means any product containing opium or opiates listed in section 152.02, subdivision 3, paragraphs (b) and (c); any product containing narcotics listed in section 152.02, subdivision 4, paragraphs (e) and (h); or any product containing narcotic drugs listed in section 152.02, subdivision 5, paragraph (b), other than products containing difenoxin or eluxadoline.

Subd. 2. **Execution of directive.** (a) An individual who is 18 years of age or older or an emancipated minor, a parent or legal guardian of a minor, or an individual's guardian or other person appointed by the individual or the court to manage the individual's health care may execute a voluntary nonopioid directive instructing health care providers that an opioid may not be administered or prescribed to the individual or the minor. The directive must be in the format prescribed by the commissioner. The person executing the directive may submit the directive to a health care provider or hospital.

(b) An individual executing a directive may revoke the directive at any time in writing or orally.

Subd. 3. **Duties of the commissioner.** The commissioner shall adopt rules establishing requirements related to the use of voluntary nonopioid health care directives. The requirements must address:

(1) verification by a health care provider and comply with the written consent requirements under United States Code, title 42, section 290dd-2(b);

(2) standard procedures for the person executing a directive to use when submitting the directive to a health care provider or hospital;

(3) procedures to include the directive in the individual's medical record or interoperable electronic health record, and to the extent practicable, to submit the directive to the prescription monitoring program database;

(4) procedures to modify, override, or revoke a directive;

(5) exemptions for the administration of naloxone or other opioid overdose drugs in an emergency situation;

(6) confidentiality of a voluntary nonopioid directive; and

(7) exemptions for an opioid used to treat substance abuse or opioid dependence.

Subd. 4. **Exemption from liability.** (a) A health care provider, a hospital, or an employee of a health care provider or hospital may not be subject to disciplinary action by the health care provider's or employee's professional licensing board or held civilly or criminally liable for failure to administer, prescribe, or dispense an opioid, or for inadvertent administration of an opioid, to an individual or minor who has a voluntary nonopioid directive.

(b) A prescription presented to a pharmacy is presumed to be valid, and a pharmacist may not be subject to disciplinary action by the pharmacist's professional licensing board

or held civilly or criminally liable for dispensing an opioid in contradiction to an individual's or minor's voluntary nonopioid directive.

Subd. 5. **Construction.** Nothing in this section shall be construed to:

(1) alter a health care directive under chapter 145C;

(2) limit the prescribing, dispensing, or administering of an opioid overdose drug; or

(3) limit an authorized health care provider or pharmacist from prescribing, dispensing, or administering an opioid for the treatment of substance abuse or opioid dependence.

Sec. 2. Minnesota Statutes 2018, section 152.105, subdivision 2, is amended to read:

Subd. 2. **Sheriff to maintain collection receptacle.** The sheriff of each county shall maintain or contract for the maintenance of at least one collection receptacle for the disposal of noncontrolled substances, pharmaceutical controlled substances, and other legend drugs, as permitted by federal law. For purposes of this section, "legend drug" has the meaning given in section 151.01, subdivision 17. The collection receptacle must comply with federal law. In maintaining and operating the collection receptacle, the sheriff shall follow all applicable provisions of Code of Federal Regulations, title 21, parts 1300, 1301, 1304, 1305, 1307, and 1317, as amended through May 1, 2017. The sheriff of each county may meet the requirements of this subdivision through the use of an alternative method for the disposal of noncontrolled substances, pharmaceutical controlled substances, and other legend drugs that has been approved by the Board of Pharmacy. This may include making available to the public, without charge, at-home prescription drug deactivation and disposal products that render drugs and medications inert and irretrievable.

Sec. 3. Minnesota Statutes 2018, section 152.11, subdivision 2d, is amended to read:

Subd. 2d. **Identification requirement for ~~Schedule II or III~~ controlled substance prescriptions.** ~~(a)~~ No person may dispense a controlled substance included in ~~Schedule II or III~~ Schedules II through V without requiring the person purchasing the controlled substance, who need not be the ~~person~~ patient for whom the controlled substance prescription is written, to present valid photographic identification, unless the person purchasing the controlled substance~~, or if applicable the person for whom the controlled substance preseription is written,~~ is known to the dispenser. A doctor of veterinary medicine who dispenses a controlled substance must comply with this subdivision.

~~(b) This subdivision applies only to purchases of controlled substances that are not covered, in whole or in part, by a health plan company or other third-party payor.~~

Sec. 4. Minnesota Statutes 2018, section 152.11, subdivision 4, is amended to read:

Subd. 4. **Limit on quantity of opiates prescribed for acute dental and ophthalmic pain.** (a) When used for the treatment of acute dental pain or acute pain associated with refractive surgery, prescriptions for opiate or narcotic pain relievers listed in Schedules II through IV of section 152.02 shall not exceed a four-day supply. The quantity prescribed shall be consistent with the dosage listed in the professional labeling for the drug that has been approved by the United States Food and Drug Administration.

(b) For the purposes of this subdivision, "acute pain" means pain resulting from disease, accidental or intentional trauma, surgery, or another cause, that the practitioner reasonably expects to last only a short period of time. Acute pain does not include chronic pain or pain being treated as part of cancer care, palliative care, or hospice or other end-of-life care.

(c) Notwithstanding paragraph (a), if in the professional clinical judgment of a practitioner more than a four-day supply of a prescription listed in Schedules II through IV of section 152.02 is required to treat a patient's acute pain, the practitioner may issue a prescription for the quantity needed to treat such acute pain.

(d) Pharmacists and pharmacies shall not be subject to disciplinary action or other civil or criminal liability of any kind for dispensing or refusing to dispense medications pursuant to an otherwise valid prescription that exceeds the quantity limits specified in this subdivision.

Sec. 5. Minnesota Statutes 2018, section 152.11, is amended by adding a subdivision to read:

Subd. 5. **Limitations on dispensing of opioid prescription drug orders.** (a) No prescription drug order for an opioid drug listed in Schedule II may be dispensed by a pharmacist or other dispenser more than 30 days after the date on which the prescription drug order was issued.

(b) No prescription drug order for an opioid drug listed in Schedules III through V may be initially dispensed by a pharmacist or other dispenser more than 30 days after the date on which the prescription drug order was issued. No prescription drug order for an opioid drug listed in Schedules III through V may be refilled by a pharmacist or other dispenser more than 30 days after the previous date on which it was dispensed.

(c) For purposes of this section, "dispenser" has the meaning given in section 152.126, subdivision 1.

Sec. 6. Minnesota Statutes 2018, section 152.11, is amended by adding a subdivision to read:

Subd. 6. **Limit on quantity of opiates prescribed for acute pain associated with a major trauma or surgical procedure.** (a) When used for the treatment of acute pain associated with a major trauma or surgical procedure, initial prescriptions for opiate or narcotic pain relievers listed in Schedules II through IV of section 152.02 shall not exceed a seven-day supply. The quantity prescribed shall be consistent with the dosage listed in the professional labeling for the drug that has been approved by the United States Food and Drug Administration.

(b) For the purposes of this subdivision, "acute pain" means pain resulting from disease, accidental or intentional trauma, surgery, or another cause that the practitioner reasonably expects to last only a short period of time. Acute pain does not include chronic pain or pain being treated as part of cancer care, palliative care, or hospice or other end-of-life care.

(c) Notwithstanding paragraph (a), if in the professional clinical judgment of a practitioner more than a seven-day supply of a prescription listed in Schedules II through IV of section 152.02 is required to treat a patient's acute pain, the practitioner may issue a prescription for the quantity needed to treat such acute pain.

(d) This subdivision does not apply to the treatment of acute dental pain or acute pain associated with refractive surgery, and the quantity of opiates that may be prescribed for those conditions is governed by subdivision 4.

(e) Pharmacists and pharmacies shall not be subject to disciplinary action or other civil or criminal liability of any kind for dispensing or refusing to dispense medications pursuant to an otherwise valid prescription that exceeds the quantity limits specified in this subdivision.

Sec. 7. Minnesota Statutes 2018, section 214.12, is amended by adding a subdivision to read:

Subd. 6. **Opioid and controlled substances prescribing.** (a) The Board of Medical Practice, the Board of Nursing, the Board of Dentistry, the Board of Optometry, and the Board of Podiatric Medicine shall require that licensees with the authority to prescribe controlled substances obtain at least two hours of continuing education credit on best practices in prescribing opioids and controlled substances, including nonpharmacological alternatives for treatment of pain and ongoing pain management, as part of the continuing education requirements for licensure renewal. Licensees shall not be required to complete more than two credit hours of continuing education on best practices in prescribing opioids and

controlled substances before this subdivision expires. Continuing education credit on best practices in prescribing opioids and controlled substances must meet board requirements.

(b) This subdivision expires January 1, 2023.

EFFECTIVE DATE. This section is effective January 1, 2020.

ARTICLE 4
INTERVENTION, TREATMENT, AND RECOVERY

Section 1. Minnesota Statutes 2018, section 145.9269, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section and section 145.9272, "federally qualified health center" means an entity that is receiving a grant under United States Code, title 42, section 254b, or, based on the recommendation of the Health Resources and Services Administration within the Public Health Service, is determined by the secretary to meet the requirements for receiving such a grant.

Sec. 2. **[145.9272] GRANTS FOR OPIOID ADDICTION AND SUBSTANCE USE DISORDER TREATMENT, RECOVERY, AND PREVENTION PROGRAMS.**

Subdivision 1. **Grant program established.** (a) The commissioner of health shall distribute grants to qualified entities operating in Minnesota as of January 1, 2019, for integrated, community-based programs in primary care settings to treat, prevent, and raise awareness of opioid addiction and substance use disorders. The commissioner shall determine the maximum award for grants.

(b) For purposes of this section, a "qualified entity" means a federally qualified health center, substance use disorder treatment program, or other provider of opioid prevention, treatment, and recovery services as designated by the commissioner.

Subd. 2. **Grant allocation; allowable uses.** (a) The commissioner shall allocate grants to qualified entities operating in Minnesota as of January 1, 2019, through a competitive process. The commissioner shall award grants to qualified entities to establish new opioid addiction and substance use disorder programs and to expand existing programs.

(b) In awarding grants, the commissioner shall give preference to proposals that expand access to culturally appropriate services for low-income persons, populations at greatest risk of opioid addiction, or populations or areas of the state that are underserved.

Subd. 3. **Report.** Each grant recipient shall report to the commissioner, at a time and in a manner specified by the commissioner, information on the use of grant funding and

outcomes achieved. The commissioner shall compile this information into a report and shall provide the report to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance by December 15, 2020.

Sec. 3. Minnesota Statutes 2018, section 151.37, subdivision 12, is amended to read:

Subd. 12. **Administration of opiate antagonists for drug overdose.** (a) A licensed physician, a licensed advanced practice registered nurse authorized to prescribe drugs pursuant to section 148.235, or a licensed physician assistant authorized to prescribe drugs pursuant to section 147A.18 may authorize the following individuals to administer opiate antagonists, as defined in section 604A.04, subdivision 1:

(1) an emergency medical responder registered pursuant to section 144E.27;

(2) a peace officer as defined in section 626.84, subdivision 1, paragraphs (c) and (d); ~~and~~

(3) staff of community-based health disease prevention or social service programs~~.~~;

(4) a probation or supervised release officer;

(5) a volunteer firefighter; and

(6) a licensed school nurse or certified public health nurse employed by, or under contract with, a school board under section 121A.21.

(b) For the purposes of this subdivision, opiate antagonists may be administered by one of these individuals only if:

(1) the licensed physician, licensed physician assistant, or licensed advanced practice registered nurse has issued a standing order to, or entered into a protocol with, the individual; and

(2) the individual has training in the recognition of signs of opiate overdose and the use of opiate antagonists as part of the emergency response to opiate overdose.

(c) Nothing in this section prohibits the possession and administration of naloxone pursuant to section 604A.04.

ARTICLE 5
APPROPRIATIONS

Section 1. **BUREAU OF CRIMINAL APPREHENSION.**

$..... in fiscal year 2020 is appropriated from the opioid stewardship account in the state government special revenue fund to the Bureau of Criminal Apprehension for two additional special agent positions within the bureau focused on drug interdiction and drug trafficking. The special agents whose positions are authorized under this section shall, whenever possible, coordinate with the federal Drug Enforcement Administration in efforts to address drug trafficking in Minnesota.

Sec. 2. **COMMISSIONER OF HUMAN SERVICES.**

(a) $..... in fiscal year 2020 is appropriated from the opioid stewardship account in the state government special revenue fund to the commissioner of human services. The commissioner, in consultation with the Opioid Addiction Advisory Council, shall distribute the appropriation according to this section. All appropriations in this section are onetime, unless otherwise specified.

(b) At least 30 percent of the available funds shall be used for county social services agencies to provide services to children in placement. 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 Advisory Council.

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

(1) providing grants to nonprofit organizations 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 ... percent increase in payment rates for substance use disorder services under Minnesota Statutes, section 254B.05, subdivision 5, beginning July 1, 2019. This appropriation is ongoing and is added to the agency base.

(f) Each recipient of grants or funding for fiscal year 2020 shall report to the commissioner and the Opioid Addiction Advisory Council on how the funds were spent and the outcomes achieved, in the form and manner specified by the commissioner.

Sec. 3. **COMMISSIONER OF HEALTH.**

Subdivision 1. **Grants to qualified entities.** $..... in fiscal year 2020 is appropriated from the opioid stewardship account in the state government special revenue fund to the commissioner of health for grants to qualified entities for opioid addiction and substance use disorder programs under Minnesota Statutes, section 145.9272. This is a onetime appropriation.

Subd. 2. **Opioid prevention pilot project.** $..... in fiscal year 2020 is appropriated from the opioid stewardship account in the state government special revenue fund to the commissioner of health to continue and expand opioid abuse prevention pilot projects under Laws 2017, First Special Session chapter 6, article 10, section 144. This is a onetime appropriation.

Subd. 3. **Non-narcotic pain management and wellness.** $..... is appropriated in fiscal year 2020 from the opioid stewardship account in the state government special revenue fund to the commissioner of health, to provide funding for:

(1) statewide mapping and assessment of community-based non-narcotic pain management and wellness resources; and

(2) up to five demonstration projects in different geographic areas of the state to provide community-based non-narcotic pain management and wellness resources to patients and consumers.

The demonstration projects must include an evaluation component and scalability analysis. The commissioner shall award the grant for the statewide mapping and assessment, and the demonstration project grants, through a competitive request for proposal process. Grants for statewide mapping and assessment and demonstration projects may be awarded simultaneously. In awarding demonstration project grants, the commissioner shall give preference to proposals that incorporate innovative community partnerships, are informed and led by people in the community where the project is taking place, and are culturally relevant and delivered by culturally competent providers. This is a onetime appropriation.

Subd. 4. **Culturally specific opioid addiction prevention and treatment programs.** (a) $..... is appropriated from the opioid stewardship account in the state government special revenue fund to the commissioner of health, to award, beginning July 1, 2019, five-year

grants to: (1) tribal governments; and (2) American Indian organizations providing services to American Indians residing in urban areas of the state. Grant dollars may be used to design, implement, and evaluate culturally specific opioid addiction prevention and treatment programs, or to expand or modify existing programs. Program design, implementation, expansion, modification, and evaluation shall be conducted by tribal health and elected leaders, and the leaders of American Indian organizations awarded grants. These leaders shall also determine which strategies and activities are culturally appropriate. The commissioner shall provide the tribes and organizations awarded grants with technical assistance. Grant awards may be used to support competitive compensation for staff members and to pay for fringe, indirect, training and continued education, travel, supply, and evaluation costs.

(b) The commissioner shall provide grants of $..... per fiscal year per tribe, and each fiscal year shall apportion an additional $..... among the tribes based on the number of tribal members.

(c) The commissioner shall award grants to American Indian organizations providing services in urban areas, using a competitive request for proposal process. A grant to an organization shall not exceed $..... per fiscal year.

Sec. 4. **HEALTH RELATED BOARDS.**

Subdivision 1. **Board of Dentistry; continuing education.** $..... in fiscal year 2020 is appropriated from the opioid stewardship account in the state government special revenue fund to the Board of Dentistry for costs associated with continuing education on prescribing opioids and controlled substances and nonpharmacologic alternatives for pain management. This is a onetime appropriation.

Subd. 2. **Board of Nursing; continuing education.** $..... in fiscal year 2020 is appropriated from the opioid stewardship account in the state government special revenue fund to the Board of Nursing for costs associated with continuing education on prescribing opioids and controlled substances and nonpharmacologic alternatives for pain management. This is a onetime appropriation.

Subd. 3. **Board of Optometry; continuing education.** $..... in fiscal year 2020 appropriated is from the opioid stewardship account in the state government special revenue fund to the Board of Optometry for costs associated with continuing education on prescribing opioids and controlled substances. This is a onetime appropriation.

Subd. 4. **Board of Podiatric Medicine; continuing education.** $..... in fiscal year 2020 is appropriated from the opioid stewardship account in the state government special revenue fund to the Board of Podiatric Medicine for costs associated with continuing education on prescribing opioids and controlled substances. This is a onetime appropriation.

Subd. 5. **Board of Medical Practice; continuing education.** $..... in fiscal year 2020 is appropriated from the opioid stewardship account in the state government special revenue fund to the Board of Medical Practice for costs associated with continuing education on prescribing opioids and controlled substances and nonpharmacologic alternatives for pain management. This is a onetime appropriation.

Subd. 6. **Board of Pharmacy.** $..... in fiscal year 2020 is appropriated from the opioid stewardship account in the state government special revenue fund to the Board of Pharmacy for collection of the registration fee under Minnesota Statutes, section 151.77.