

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
03/07/2019 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time
03/18/2019 Calendar for the Day, Amended
Read Third Time as Amended
Passed by the House as Amended and transmitted to the Senate to include Floor Amendments

1.1

A bill for an act

1.2 relating to health; establishing the Opioid Addiction Advisory Council; establishing
1.3 the opioid stewardship fund; establishing an opiate product registration fee;
1.4 modifying provisions related to opioid addiction prevention, education, intervention,
1.5 treatment, and recovery; requiring reports; appropriating money; amending
1.6 Minnesota Statutes 2018, sections 16A.151, subdivision 2; 145.9269, subdivision
1.7 1; 145C.05, subdivision 2; 151.252, subdivision 1; 151.37, subdivision 12; 151.47,
1.8 by adding a subdivision; 151.71, by adding a subdivision; 152.105, subdivision
1.9 2; 152.11, subdivision 2d, by adding subdivisions; 214.12, by adding a subdivision;
1.10 proposing coding for new law in Minnesota Statutes, chapters 16A; 62Q; 145;
1.11 145C; 151.

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

ARTICLE 1

OPIOID PRODUCT STEWARDSHIP

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

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

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

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

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

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

2.11 (f) Any money received by the state from a settlement agreement or court order from
2.12 litigation brought by the attorney general of the state on behalf of the state or a state agency,
2.13 against one or more opioid manufacturers related to violations of consumer fraud laws in
2.14 the marketing and sale of opioids in this state or other illegal actions that contributed to the
2.15 excessive use of opioids, must be deposited in the opioid stewardship fund established under
2.16 section 16A.7245. This paragraph does not apply to attorney fees and costs awarded to the
2.17 Attorney General's office, to contract attorneys hired by the Attorney General's office, or
2.18 to other state agency attorneys.

2.19 **Sec. 2. 16A.7245 OPIOID STEWARDSHIP FUND.**

2.20 An opioid stewardship fund is created in the state treasury. The commissioner shall
2.21 deposit to the credit of the fund the registration fees collected by the Board of Pharmacy
2.22 under section 151.77 and any other money made available to the fund. Notwithstanding
2.23 section 11A.20, all investment income and all investment losses attributable to the investment
2.24 of the opioid stewardship fund not currently needed must be credited to the opioid
2.25 stewardship fund.

2.26 **Sec. 3. Minnesota Statutes 2018, section 151.252, subdivision 1, is amended to read:**

2.27 **Subdivision 1. Requirements.** (a) No person shall act as a drug manufacturer without
2.28 first obtaining a license from the board and paying any applicable fee specified in section
2.29 151.065.

2.30 (b) In addition to the license required under paragraph (a), a manufacturer of a Schedule
2.31 II through IV opiate controlled substance must pay the applicable registration fee specified
2.32 in section 151.77, subdivision 3, by June 1 of each year, beginning June 1, 2020. In the

3.1 event of a change of ownership of the manufacturer, the new owner must pay the registration
3.2 fee specified under section 151.77, subdivision 3, that the original owner would have been
3.3 assessed had it retained ownership. The board may assess a late fee of ten percent per month
3.4 for every portion of a month that the registration fee is paid after the due date.

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

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

3.10 (d) (e) No license shall be issued or renewed for a drug manufacturer that is required to
3.11 be registered pursuant to United States Code, title 21, section 360, unless the applicant
3.12 supplies the board with proof of registration. The board may establish by rule the standards
3.13 for licensure of drug manufacturers that are not required to be registered under United States
3.14 Code, title 21, section 360.

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

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

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

4.1 **Sec. 4. [151.255] OPIOID ADDICTION ADVISORY COUNCIL.**

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

4.5 (1) prevention and education, including public education and awareness for adults and
4.6 youth, prescriber education, and the development and sustainability of substance use disorder
4.7 programs;

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

4.11 (3) training on the treatment of opioid addiction, including the use of all FDA-approved
4.12 opioid addiction medications, detoxification, relapse prevention, patient assessment,
4.13 individual treatment planning, counseling, recovery supports, diversion control, and other
4.14 best practices;

4.15 (4) services to ensure overdose prevention as well as public safety and community
4.16 well-being, including expanding access to FDA-approved opioid addiction medications and
4.17 providing adult protective services and other social services to individuals and families
4.18 affected by the opioid overdose epidemic; and

4.19 (5) the development of measures to assess and protect the ability of cancer patients and
4.20 survivors, persons battling life threatening illnesses, persons suffering from severe chronic
4.21 pain, and persons at the end stages of life, who legitimately need prescription pain
4.22 medications, to maintain their quality of life by accessing these pain medications without
4.23 facing unnecessary barriers. The measures must also address the needs of individuals
4.24 described in this clause who are elderly or who reside in underserved or rural areas of the
4.25 state.

4.26 (b) The council shall:

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

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

4.32 (3) ensure available funding is aligned with existing state and federal funding to achieve
4.33 the greatest impact and ensure a coordinated state effort;

5.1 (4) develop criteria and procedures to be used in awarding grants and allocating available
5.2 funds from the opioid stewardship fund; and

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

5.4 (c) The council shall make recommendations on grant and funding options for the funds
5.5 annually appropriated to the commissioner of human services from the opioid stewardship
5.6 fund. The options for funding may include but are not limited to: prescriber education; the
5.7 development and sustainability of prevention programs; the creation of a continuum of care
5.8 for opioid-related substance abuse disorders, including primary prevention, early intervention,
5.9 treatment, and recovery services; and additional funding for child protection case management
5.10 services for children and families affected by opioid addiction. The council shall submit
5.11 recommendations for funding options to the commissioner of human services and to the
5.12 chairs and ranking minority members of the legislative committees with jurisdiction over
5.13 health and human services policy and finance by March 1 of each year, beginning March
5.14 1, 2020.

5.15 Subd. 2. **Membership.** (a) The council shall consist of 22 members, appointed by the
5.16 commissioner of human services except as otherwise specified:

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

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

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

5.23 (4) one member who is a medical doctor appointed by the Minnesota Medical Association;

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

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

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

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

5.31 (9) the commissioner of education or a designee;

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

6.3 (11) one member representing the Minnesota Hospital Association;

6.4 (12) two members representing Indian tribes;

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

6.6 (14) the commissioner of corrections or a designee;

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

6.8 (16) the commissioner of health or a designee;

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

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

6.13 (19) one member with personal experience of severe chronic pain.

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

6.17 (c) The council is governed by section 15.059, except that members of the council shall
6.18 receive no compensation other than reimbursement for expenses. Notwithstanding section
6.19 15.059, subdivision 6, the council shall not expire.

6.20 (d) The chair shall convene the council on a quarterly basis and may convene other
6.21 meetings as necessary. The chair shall convene meetings at different locations in the state
6.22 to provide geographic access and shall ensure that at least one-half of the meetings are held
6.23 at locations outside of the seven-county metropolitan area.

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

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

6.27 **Sec. 5. [151.256] USE OF OPIOID STEWARDSHIP FUND.**

6.28 Subdivision 1. Use of funds. (a) For fiscal year 2020, money in the opioid stewardship
6.29 fund established under section 16A.7245 is appropriated as specified in article 5.

7.1 (b) For fiscal year 2021 and subsequent fiscal years, money in the opioid stewardship
7.2 fund is appropriated to the commissioner of human services, to be distributed, in consultation
7.3 with the Opioid Addiction Advisory Council, as grants or other funding, or as transfers to
7.4 the Department of Health and other state agencies, as determined appropriate to address the
7.5 opioid epidemic in the state. The commissioner may retain up to five percent of the
7.6 appropriation for administrative costs of implementing this paragraph and for administrative
7.7 costs related to the Opioid Addiction Advisory Council. The commissioner, in consultation
7.8 with the advisory council, may provide additional appropriations for the initiatives funded
7.9 in article 5. Each recipient of grants or funding shall report to the commissioner and the
7.10 advisory council on how the funds were spent and the outcomes achieved, in the form and
7.11 manner specified by the commissioner.

7.12 Subd. 2. **Annual report.** Beginning January 15, 2020, and each January 15 thereafter,
7.13 the commissioner, in consultation with the Opioid Addiction Advisory Council, shall report
7.14 to the chairs and ranking minority members of the legislative committees with jurisdiction
7.15 over health and human services policy and finance on the grants and funds awarded under
7.16 this section and article 5 and the outcomes achieved. Each report must also identify those
7.17 instances for which the commissioner did not follow the recommendations of the advisory
7.18 council and the commissioner's rationale for taking this action.

7.19 Sec. 6. Minnesota Statutes 2018, section 151.47, is amended by adding a subdivision to
7.20 read:

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

7.30 Sec. 7. **[151.77] OPIATE PRODUCT REGISTRATION FEE.**

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

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

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

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

8.8 **Subd. 2. Reporting requirements.** (a) By March 1 of each year, beginning March 1,
8.9 2020, each manufacturer and each wholesale drug distributor must report to the board every
8.10 sale, delivery, or other distribution within or into this state of any opiate that is made to any
8.11 practitioner, pharmacy, hospital, veterinary hospital, or other person who is permitted by
8.12 section 151.37 to possess controlled substances for administration or dispensing to patients
8.13 that occurred during the previous calendar year. Reporting must be in the automation of
8.14 reports and consolidated orders system format unless otherwise specified by the board. If
8.15 a manufacturer or wholesaler fails to provide information required under this paragraph on
8.16 a timely basis, the board may assess an administrative penalty of \$500 per day. This penalty
8.17 shall not be considered a form of disciplinary action.

8.18 (b) By March 1 of each year, beginning March 1, 2020, each owner of a pharmacy with
8.19 at least one location within this state must report to the board the intracompany delivery or
8.20 distribution into this state of any opiate, to the extent that those deliveries and distributions
8.21 are not reported to the board by a licensed wholesale drug distributor owned by, under
8.22 contract to, or otherwise operating on behalf of the owner of the pharmacy. Reporting must
8.23 be in the manner and format specified by the board for deliveries and distributions that
8.24 occurred during the previous calendar year. The report must include the name of the
8.25 manufacturer or wholesaler from which the owner of the pharmacy ultimately purchased
8.26 the opiate, and the amount and date that the purchases occurred.

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

8.32 (b) By April 1 of each year, beginning April 1, 2020, the board shall notify each
8.33 manufacturer of the annual amount of the manufacturer's registration fee to be paid by June
8.34 1, in accordance with section 151.252, subdivision 1, paragraph (b).

9.1 (c) In conjunction with the data reported under this section, and notwithstanding section
9.2 152.126, subdivision 6, the board may use the data reported under section 152.126,
9.3 subdivision 4, to determine the manufacturer registration fees required under this subdivision.

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

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

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

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

9.33 **Subd. 5. Report.** (a) The Board of Pharmacy shall evaluate the registration fee on drug
9.34 manufacturers and wholesalers established under this section, and whether the fee has

10.1 impacted the prescribing practices for opiates by reducing the number of opiate prescriptions
10.2 issued during calendar years 2020, 2021, and 2022, to the extent the board has the ability
10.3 to effectively identify a correlation. Notwithstanding section 152.126, subdivision 6, the
10.4 board may access the data reported under section 152.126, subdivision 4, to conduct this
10.5 evaluation.

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

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

10.14 **Sec. 8. ADVISORY COUNCIL FIRST MEETING.**

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

10.18 **ARTICLE 2**

10.19 **HEALTH PLAN COMPANY REQUIREMENTS**

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

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

10.23 (1) an acupuncture practitioner under chapter 147B; or
10.24 (2) a chiropractor under chapter 148.

10.25 (b) Notwithstanding paragraph (a), coverage for acupuncture services under medical
10.26 assistance and MinnesotaCare is in accordance with section 256B.0625, subdivision 8f.

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

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

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

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

ARTICLE 3

PREVENTION AND EDUCATION

11.13 Section 1. Minnesota Statutes 2018, section 145C.05, subdivision 2, is amended to read:

11.14 **Subd. 2. Provisions that may be included.** (a) A health care directive may include
11.15 provisions consistent with this chapter, including, but not limited to:

11.16 (1) the designation of one or more alternate health care agents to act if the named health
11.17 care agent is not reasonably available to serve;

11.18 (2) directions to joint health care agents regarding the process or standards by which the
11.19 health care agents are to reach a health care decision for the principal, and a statement
11.20 whether joint health care agents may act independently of one another;

11.21 (3) limitations, if any, on the right of the health care agent or any alternate health care
11.22 agents to receive, review, obtain copies of, and consent to the disclosure of the principal's
11.23 medical records or to visit the principal when the principal is a patient in a health care
11.24 facility;

11.25 (4) limitations, if any, on the nomination of the health care agent as guardian for purposes
11.26 of sections 524.5-202, 524.5-211, 524.5-302, and 524.5-303;

11.27 (5) a document of gift for the purpose of making an anatomical gift, as set forth in chapter
11.28 525A, or an amendment to, revocation of, or refusal to make an anatomical gift;

11.29 (6) a declaration regarding intrusive mental health treatment under section 253B.03,
11.30 subdivision 6d, or a statement that the health care agent is authorized to give consent for
11.31 the principal under section 253B.04, subdivision 1a;

12.1 (7) a funeral directive as provided in section 149A.80, subdivision 2;

12.2 (8) limitations, if any, to the effect of dissolution or annulment of marriage or termination
12.3 of domestic partnership on the appointment of a health care agent under section 145C.09,
12.4 subdivision 2;

12.5 (9) specific reasons why a principal wants a health care provider or an employee of a
12.6 health care provider attending the principal to be eligible to act as the principal's health care
12.7 agent;

12.8 (10) health care instructions by a woman of child bearing age regarding how she would
12.9 like her pregnancy, if any, to affect health care decisions made on her behalf; and

12.10 (11) health care instructions regarding artificially administered nutrition or hydration;
12.11 and

12.12 (12) health care instructions to prohibit administering, dispensing, or prescribing an
12.13 opioid, except that these instructions must not be construed to limit the administering,
12.14 dispensing, or prescribing an opioid to treat substance abuse, opioid dependence, or an
12.15 overdose, unless otherwise prohibited in the health care directive.

12.16 (b) A health care directive may include a statement of the circumstances under which
12.17 the directive becomes effective other than upon the judgment of the principal's attending
12.18 physician in the following situations:

12.19 (1) a principal who in good faith generally selects and depends upon spiritual means or
12.20 prayer for the treatment or care of disease or remedial care and does not have an attending
12.21 physician, may include a statement appointing an individual who may determine the
12.22 principal's decision-making capacity; and

12.23 (2) a principal who in good faith does not generally select a physician or a health care
12.24 facility for the principal's health care needs may include a statement appointing an individual
12.25 who may determine the principal's decision-making capacity, provided that if the need to
12.26 determine the principal's capacity arises when the principal is receiving care under the
12.27 direction of an attending physician in a health care facility, the determination must be made
12.28 by an attending physician after consultation with the appointed individual.

12.29 If a person appointed under clause (1) or (2) is not reasonably available and the principal
12.30 is receiving care under the direction of an attending physician in a health care facility, an
12.31 attending physician shall determine the principal's decision-making capacity.

12.32 (c) A health care directive may authorize a health care agent to make health care decisions
12.33 for a principal even though the principal retains decision-making capacity.

13.1 Sec. 2. **[145C.17] OPIOID INSTRUCTIONS ENTERED INTO HEALTH RECORD.**

13.2 At the request of the patient or health care agent, a health care provider shall enter into
13.3 the patient's health care record any instructions relating to administering, dispensing, or
13.4 prescribing an opioid.

13.5 Sec. 3. Minnesota Statutes 2018, section 152.105, subdivision 2, is amended to read:

13.6 **Subd. 2. Sheriff to maintain collection receptacle.** The sheriff of each county shall
13.7 maintain or contract for the maintenance of at least one collection receptacle for the disposal
13.8 of noncontrolled substances, pharmaceutical controlled substances, and other legend drugs,
13.9 as permitted by federal law. For purposes of this section, "legend drug" has the meaning
13.10 given in section 151.01, subdivision 17. The collection receptacle must comply with federal
13.11 law. In maintaining and operating the collection receptacle, the sheriff shall follow all
13.12 applicable provisions of Code of Federal Regulations, title 21, parts 1300, 1301, 1304, 1305,
13.13 1307, and 1317, as amended through May 1, 2017. The sheriff of each county may meet
13.14 the requirements of this subdivision through the use of an alternative method for the disposal
13.15 of noncontrolled substances, pharmaceutical controlled substances, and other legend drugs
13.16 that has been approved by the Board of Pharmacy. This may include making available to
13.17 the public, without charge, at-home prescription drug deactivation and disposal products
13.18 that render drugs and medications inert and irretrievable.

13.19 Sec. 4. Minnesota Statutes 2018, section 152.11, subdivision 2d, is amended to read:

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

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

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

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

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

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

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

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

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

14.27 (c) Notwithstanding paragraph (a), if in the professional clinical judgment of a practitioner
14.28 more than a seven-day supply of a prescription listed in Schedules II through IV of section
14.29 152.02 is required to treat a patient's acute pain, the practitioner may issue a prescription
14.30 for the quantity needed to treat such acute pain.

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

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

15.3 **Subd. 6. Opioid and controlled substances prescribing.** (a) The Board of Medical
15.4 Practice, the Board of Nursing, the Board of Dentistry, the Board of Optometry, and the
15.5 Board of Podiatric Medicine shall require that licensees with the authority to prescribe
15.6 controlled substances obtain at least two hours of continuing education credit on best practices
15.7 in prescribing opioids and controlled substances, including nonpharmacological alternatives
15.8 for treatment of pain and ongoing pain management, as part of the continuing education
15.9 requirements for licensure renewal. Licensees shall not be required to complete more than
15.10 two credit hours of continuing education on best practices in prescribing opioids and
15.11 controlled substances before this subdivision expires. Continuing education credit on best
15.12 practices in prescribing opioids and controlled substances must meet board requirements.

15.13 (b) This subdivision expires January 1, 2023.

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

ARTICLE 4

INTERVENTION, TREATMENT, AND RECOVERY

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

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

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

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

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

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

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

16.8 **Subd. 3. Report.** Each grant recipient shall report to the commissioner, at a time and in
16.9 a manner specified by the commissioner, information on the use of grant funding and
16.10 outcomes achieved. The commissioner shall compile this information into a report and shall
16.11 provide the report to the chairs and ranking minority members of the legislative committees
16.12 with jurisdiction over health and human services policy and finance by December 15, 2020.

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

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

16.19 (1) an emergency medical responder registered pursuant to section 144E.27;
16.20 (2) a peace officer as defined in section 626.84, subdivision 1, paragraphs (c) and (d);
16.21 **and**

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

16.23 (4) a probation or supervised release officer;

16.24 (5) a volunteer firefighter; and

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

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

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

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

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

17.5 **ARTICLE 5**

17.6 **APPROPRIATIONS**

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

17.8 \$288,000 in fiscal year 2020 and \$288,000 in fiscal year 2021 are appropriated from the
17.9 opioid stewardship fund to the Bureau of Criminal Apprehension for two additional special
17.10 agent positions within the bureau focused on drug interdiction and drug trafficking. The
17.11 special agents whose positions are authorized under this section shall, whenever possible,
17.12 coordinate with the federal Drug Enforcement Administration in efforts to address drug
17.13 trafficking in Minnesota. The Bureau of Criminal Apprehension shall report by November
17.14 1, 2021, to the chairs and ranking minority members of the legislative committees with
17.15 jurisdiction over health and human services policy and finance and public safety, on the
17.16 initiatives funded under this section. This is an ongoing appropriation from the opioid
17.17 stewardship fund.

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

17.19 (a) \$8,283,000 in fiscal year 2020 is appropriated from the opioid stewardship fund to
17.20 the commissioner of human services. The commissioner, in consultation with the Opioid
17.21 Addiction Advisory Council, shall distribute the appropriation according to this section.
17.22 All appropriations in this section are onetime, unless otherwise specified.

17.23 (b) At least 30 percent of the available funds shall be used for county social services
17.24 agencies and tribal social service agency initiative projects authorized by the commissioner
17.25 under section 256.01, subdivision 14b, to provide services to children in placement. The
17.26 commissioner shall distribute the money allocated under this subdivision proportionally to
17.27 counties and tribes based on the number of open child protection case management cases
17.28 using data from the previous calendar year.

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

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

18.4 (e) The remaining appropriation must be used for providing grants to nonprofit
18.5 organizations for the purpose of expanding prescriber education and public awareness and
18.6 the purchase of opiate antagonists for distribution to the health care and public safety
18.7 communities.

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

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

18.12 Subdivision 1. **Grants to qualified entities.** \$2,000,000 in fiscal year 2020 is appropriated
18.13 from the opioid stewardship fund to the commissioner of health for grants to qualified
18.14 entities for opioid addiction and substance use disorder programs under Minnesota Statutes,
18.15 section 145.9272. This is a onetime appropriation.

18.16 Subd. 2. **Opioid prevention pilot project.** \$2,400,000 in fiscal year 2020 is appropriated
18.17 from the opioid stewardship fund to the commissioner of health to continue and expand
18.18 opioid abuse prevention pilot projects under Laws 2017, First Special Session chapter 6,
18.19 article 10, section 144. This is a onetime appropriation.

18.20 Subd. 3. **Non-narcotic pain management and wellness.** \$1,250,000 is appropriated in
18.21 fiscal year 2020 from the opioid stewardship fund to the commissioner of health, to provide
18.22 funding for:

18.23 (1) statewide mapping and assessment of community-based non-narcotic pain
18.24 management and wellness resources, including access to implantable and nonimplantable
18.25 medical devices; and

18.26 (2) up to five demonstration projects in different geographic areas of the state to provide
18.27 community-based non-narcotic pain management and wellness resources, including
18.28 implantable and nonimplantable medical devices, to patients and consumers.

18.29 The demonstration projects must include an evaluation component and scalability analysis.
18.30 The commissioner shall award the grant for the statewide mapping and assessment, and the
18.31 demonstration project grants, through a competitive request for proposal process. Grants
18.32 for statewide mapping and assessment and demonstration projects may be awarded
18.33 simultaneously. In awarding demonstration project grants, the commissioner shall give

19.1 preference to proposals that incorporate innovative community partnerships, are informed
19.2 and led by people in the community where the project is taking place, and are culturally
19.3 relevant and delivered by culturally competent providers. This is a onetime appropriation.

19.4 **Subd. 4. Culturally specific opioid addiction prevention and treatment programs. (a)**

19.5 \$4,520,000 in fiscal year 2020 and \$4,520,000 in fiscal year 2021 are appropriated from
19.6 the opioid stewardship fund to the commissioner of health, to award, beginning July 1,
19.7 2019, five-year grants to: (1) tribal governments; and (2) American Indian organizations
19.8 providing services to American Indians residing in urban areas of the state. Grant dollars
19.9 may be used to design, implement, and evaluate culturally specific opioid addiction
19.10 prevention and treatment programs, or to expand or modify existing programs. Program
19.11 design, implementation, expansion, modification, and evaluation shall be conducted by
19.12 tribal health and elected leaders, and the leaders of American Indian organizations awarded
19.13 grants. These leaders shall also determine which strategies and activities are culturally
19.14 appropriate. The commissioner shall provide the tribes and organizations awarded grants
19.15 with technical assistance. Grant awards may be used to support competitive compensation
19.16 for staff members and to pay for fringe, indirect, training and continued education, travel,
19.17 supply, and evaluation costs. Base funding for these grants is \$4,520,000 for fiscal year
19.18 2022 and \$4,520,000 for fiscal year 2023.

19.19 (b) Of the appropriation in paragraph (a), \$3,300,000 each fiscal year is for the
19.20 commissioner to provide grants of equal value to each tribe and to apportion an additional
19.21 amount among the tribes based on the number of tribal members.

19.22 (c) Of the appropriation in paragraph (a), \$1,250,000 each fiscal year is for the
19.23 commissioner to award grants to American Indian organizations providing services in urban
19.24 areas, using a competitive request for proposal process. A grant to an organization shall not
19.25 exceed \$250,000 per fiscal year.

19.26 **Subd. 5. Administration.** \$890,000 in fiscal year 2020 and \$702,000 in fiscal year 2021
19.27 are appropriated from the opioid stewardship fund to the commissioner of health to administer
19.28 the programs in this section. The base for administration is \$485,000 in fiscal year 2022
19.29 and \$485,000 in fiscal year 2023.

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

19.31 **Subdivision 1. Board of Dentistry; continuing education.** \$11,000 in fiscal year 2020
19.32 is appropriated from the opioid stewardship fund to the Board of Dentistry for costs associated
19.33 with continuing education on prescribing opioids and controlled substances and
19.34 nonpharmacologic alternatives for pain management. This is a onetime appropriation.

20.1 Subd. 2. **Board of Nursing; continuing education.** \$17,000 in fiscal year 2020 is
20.2 appropriated from the opioid stewardship fund to the Board of Nursing for costs associated
20.3 with continuing education on prescribing opioids and controlled substances and
20.4 nonpharmacologic alternatives for pain management. This is a onetime appropriation.

20.5 Subd. 3. **Board of Optometry; continuing education.** \$5,000 in fiscal year 2020 is
20.6 appropriated from the opioid stewardship fund to the Board of Optometry for costs associated
20.7 with continuing education on prescribing opioids and controlled substances. This is a onetime
20.8 appropriation.

20.9 Subd. 4. **Board of Podiatric Medicine; continuing education.** \$5,000 in fiscal year
20.10 2020 is appropriated from the opioid stewardship fund to the Board of Podiatric Medicine
20.11 for costs associated with continuing education on prescribing opioids and controlled
20.12 substances. This is a onetime appropriation.

20.13 Subd. 5. **Board of Medical Practice; continuing education.** \$17,000 in fiscal year
20.14 2020 is appropriated from the opioid stewardship fund to the Board of Medical Practice for
20.15 costs associated with continuing education on prescribing opioids and controlled substances
20.16 and nonpharmacologic alternatives for pain management. This is a onetime appropriation.

20.17 Subd. 6. **Board of Pharmacy.** \$284,000 in fiscal year 2020 and \$126,000 in fiscal year
20.18 2021 are appropriated from the opioid stewardship fund to the Board of Pharmacy for
20.19 collection of the registration fee under Minnesota Statutes, section 151.77. This is an ongoing
20.20 appropriation from the opioid stewardship fund.