SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 1129

(SENATE AUTHORS: HOFFMAN, Dibble and Abeler)

DATE	D-PG	OFFICIAL STATUS
02/02/2023	593	Introduction and first reading Referred to Health and Human Services

A bill for an act

relating to human services; modifying the membership of the Formulary Committee; modifying the procedure for making changes to the preferred drug list; making related changes; amending Minnesota Statutes 2022, section 256B.0625, subdivisions 13c, 13g.

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

Section 1. Minnesota Statutes 2022, section 256B.0625, subdivision 13c, is amended to read:

Subd. 13c. **Formulary Committee.** The commissioner, after receiving recommendations from professional medical associations and professional pharmacy associations, and consumer groups shall designate a Formulary Committee to carry out duties as described in subdivisions 13 to 13g. The Formulary Committee shall be comprised of ~~four~~ at least five licensed physicians actively engaged in the practice of medicine in Minnesota, one of whom ~~must be actively engaged in the treatment of persons with mental illness~~ is an actively practicing psychiatrist, one of whom specializes in the diagnosis and treatment of rare diseases, one of whom specializes in pediatrics, and one of whom actively treats persons with disabilities; at least three licensed pharmacists actively engaged in the practice of pharmacy in Minnesota, one of whom practices outside the metropolitan counties listed in section 473.121, subdivision 4, one of whom practices in the metropolitan counties listed in section 473.121, subdivision 4, and one of whom is a practicing hospital pharmacist; ~~and one~~ at least four consumer ~~representative~~ representatives, all of whom must have a personal or professional connection to medical assistance; and one representative designated by the Minnesota Rare Disease Advisory Council established under section 256.4835; the remainder to be made up of health care professionals who are licensed in their field and have recognized knowledge in the

clinically appropriate prescribing, dispensing, and monitoring of covered outpatient drugs. Members of the Formulary Committee shall not be employed by the Department of Human Services, but the committee shall be staffed by an employee of the department who shall serve as an ex officio, nonvoting member of the committee. The department's medical director shall also serve as an ex officio, nonvoting member for the committee. Committee members shall serve three-year terms and may be reappointed once by the commissioner. The committee members shall vote on a chair from among their membership. The chair shall preside over all committee meetings. The Formulary Committee shall meet at least ~~twice~~ six times per year. The commissioner may require more frequent Formulary Committee meetings as needed. An honorarium of $100 per meeting and reimbursement for mileage shall be paid to each committee member in attendance. The Formulary Committee is subject to the Open Meeting Law under chapter 13D. The Formulary Committee expires June 30, ~~2023~~ 2027.

Sec. 2. Minnesota Statutes 2022, section 256B.0625, subdivision 13g, is amended to read:

Subd. 13g. **Preferred drug list.** (a) The commissioner shall adopt and implement a preferred drug list by January 1, 2004. The commissioner may enter into a contract with a vendor for the purpose of participating in a preferred drug list and supplemental rebate program. The terms of the contract must be publicly disclosed. The commissioner shall ensure that any contract meets all federal requirements and maximizes federal financial participation. The commissioner shall publish the preferred drug list annually in the State Register and shall maintain an accurate and up-to-date list on the agency website. The commissioner shall implement and maintain an accurate archive of previous versions of the preferred drug list, and make this archive available to the public beginning January 1, 2024.

(b) The commissioner may add to, delete from, and otherwise modify the preferred drug list, after consulting with the Formulary Committee ~~and~~, appropriate medical specialists, appropriate patient advocacy groups, and the Minnesota Rare Disease Advisory Council, ~~and~~ providing public notice and the opportunity for public comment, and complying with the requirements of paragraph (f).

(c) The commissioner shall adopt and administer the preferred drug list as part of the administration of the supplemental drug rebate program. Reimbursement for prescription drugs not on the preferred drug list may be subject to prior authorization.

(d) For purposes of this subdivision, the following definitions apply:

(1) "appropriate medical specialist" means a medical professional who prescribes the relevant class of drug as part of their subspecialty;

(2) "patient advocacy group" means a nonprofit organization as described in United States Code, title 26, section 501(c)(3), that is exempt from income tax under section 501(a), or a public entity that supports persons with the disease state treated by the therapeutic class of the preferred drug list being updated; and

(3) "preferred drug list" means a list of prescription drugs within designated therapeutic classes selected by the commissioner, for which prior authorization based on the identity of the drug or class is not required.

(e) The commissioner shall seek any federal waivers or approvals necessary to implement this subdivision. The commissioner shall maintain a public list of applicable patient advocacy groups.

(f) ~~Notwithstanding paragraph (b),~~ Before the commissioner may delete a drug from the preferred drug list or modify the inclusion of a drug on the preferred drug list, the commissioner shall consider any implications that the deletion or modification may have on state public health policies or initiatives and any impact that the deletion or modification may have on increasing health disparities in the state. Prior to deleting a drug or modifying the inclusion of a drug, the commissioner shall also conduct a public hearing. The commissioner shall provide adequate notice to the public and the commissioner of health prior to the hearing that specifies the drug that the commissioner is proposing to delete or modify, and shall disclose any ~~public~~ medical or clinical analysis that the commissioner has relied on in proposing the deletion or modification, and evidence that the commissioner has evaluated the impact of the proposed deletion or modification on public health and health disparities. Notwithstanding section 331A.05, a public notice of a Formulary Committee meeting must be published at least 45 days in advance of the meeting. The list of drugs to be discussed at the meeting must be announced at least 30 days before the meeting and must include the name and class of drug, the proposed action, and the proposed prior authorization requirements, if applicable.