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ARTICLE 6

OPIOID PRESCRIBING IMPROVEMENT PROGRAM

Section 1. Minnesota Statutes 2022, section 256B.0638, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Commissioner" means the commissioner of human services.

(c) "Commissioners" means the commissioner of human services and the commissioner of health.

(d) "DEA" means the United States Drug Enforcement Administration.

(e) "Minnesota health care program" means a public health care program administered by the commissioner of human services under this chapter and chapter 256L, and the Minnesota restricted recipient program.

(f) "Opioid disenrollment standards" means parameters of opioid prescribing practices that fall outside community standard thresholds for prescribing to such a degree that a provider must be disenrolled as a medical assistance provider.

(g) "Opioid prescriber" means a licensed health care provider who prescribes opioids to ~~medical assistance and MinnesotaCare~~ Minnesota health care program enrollees under the fee-for-service system or under a managed care or county-based purchasing plan.

(h) "Opioid quality improvement standard thresholds" means parameters of opioid prescribing practices that fall outside community standards for prescribing to such a degree that quality improvement is required.

(i) "Program" means the statewide opioid prescribing improvement program established under this section.

(j) "Provider group" means a clinic, hospital, or primary or specialty practice group that employs, contracts with, or is affiliated with an opioid prescriber. Provider group does not include a professional association supported by dues-paying members.

ARTICLE 5

OPIOID PRESCRIBING IMPROVEMENT PROGRAM

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

Subdivision 1. **Program established.** The commissioner of human services, in conjunction with the commissioner of health, shall coordinate and implement an opioid prescribing improvement program to reduce opioid dependency and substance use by Minnesotans due to the prescribing of opioid analgesics by health care providers and to support patient-centered, compassionate care for Minnesotans who require treatment with opioid analgesics.

Sec. 2. Minnesota Statutes 2022, section 256B.0638, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Commissioner" means the commissioner of human services.

(c) "Commissioners" means the commissioner of human services and the commissioner of health.

(d) "DEA" means the United States Drug Enforcement Administration.

(e) "Minnesota health care program" means a public health care program administered by the commissioner of human services under this chapter and chapter 256L, and the Minnesota restricted recipient program.

(f) "Opioid ~~disenrollment~~ sanction standards" means ~~parameters~~ clinical indicators defined by the Opioid Prescribing Work Group of opioid prescribing practices that fall outside community standard thresholds for prescribing to such a degree that a provider ~~must be disenrolled~~ may be subject to sanctions under section 256B.064 as a ~~medical assistance~~ Minnesota health care program provider.

(g) "Opioid prescriber" means a licensed health care provider who prescribes opioids to ~~medical assistance~~ Minnesota health care program and MinnesotaCare enrollees under the fee-for-service system or under a managed care or county-based purchasing plan.

(h) "Opioid quality improvement standard thresholds" means parameters of opioid prescribing practices that fall outside community standards for prescribing to such a degree that quality improvement is required.

(i) "Program" means the statewide opioid prescribing improvement program established under this section.

(j) "Provider group" means a clinic, hospital, or primary or specialty practice group that employs, contracts with, or is affiliated with an opioid prescriber. Provider group does not include a professional association supported by dues-paying members.

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(k) "Sentinel measures" means measures of opioid use that identify variations in prescribing practices during the prescribing intervals.

Sec. 2. Minnesota Statutes 2022, section 256B.0638, subdivision 4, is amended to read:

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

(1) developing criteria for opioid prescribing protocols, including:

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

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

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

(2) developing sentinel measures;

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

(4) developing opioid quality improvement standard thresholds ~~and opioid disenrollment standards~~ for opioid prescribers and provider groups~~. In developing opioid disenrollment standards, the standards may be described in terms of the length of time in which prescribing practices fall outside community standards and the nature and amount of opioid prescribing that fall outside community standards~~; and

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

(b) The opioid prescribing protocols shall not apply to opioids prescribed for patients who are experiencing pain caused by a malignant condition or who are receiving hospice care or palliative care, or to opioids prescribed for substance use disorder treatment with medications for opioid use disorder.

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

Sec. 3. Minnesota Statutes 2022, section 256B.0638, subdivision 5, is amended to read:

Subd. 5. **Program implementation.** (a) The commissioner shall implement the ~~programs within the Minnesota health care~~ quality improvement program to improve the health of and quality of care provided to Minnesota health care program enrollees. The commissioner shall annually collect and report to provider groups the sentinel measures of data showing individual opioid prescribers' opioid prescribing patterns compared to their anonymized

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(k) "Sentinel measures" means measures of opioid use that identify variations in prescribing practices during the prescribing intervals.

Sec. 3. Minnesota Statutes 2022, section 256B.0638, subdivision 4, is amended to read:

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

(1) developing criteria for opioid prescribing protocols, including:

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

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

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

(2) developing sentinel measures;

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

(4) developing opioid quality improvement standard thresholds and ~~opioid disenrollment~~ sanction standards for opioid prescribers and provider groups~~. In developing opioid disenrollment standards, the standards may be described in terms of the length of time in which prescribing practices fall outside community standards and the nature and amount of opioid prescribing that fall outside community standards~~; and

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

(b) The opioid prescribing protocols shall not apply to opioids prescribed for patients who are experiencing pain caused by a malignant condition or who are receiving hospice care or palliative care, or to opioids prescribed for substance use disorder treatment with medications for opioid use disorder.

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

Sec. 4. Minnesota Statutes 2022, section 256B.0638, subdivision 5, is amended to read:

Subd. 5. **Program implementation.** (a) The commissioner shall implement the ~~programs within the Minnesota health care~~ quality improvement program to improve the health of and quality of care provided to Minnesota health care program enrollees. The program must be designed to support patient-centered care consistent with community standards of care. The program must discourage unsafe tapering practices and patient abandonment by

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peers. Provider groups shall distribute data to their affiliated, contracted, or employed opioid prescribers.

(b) The commissioner shall notify an opioid prescriber and all provider groups with which the opioid prescriber is employed or affiliated when the opioid prescriber's prescribing pattern exceeds the opioid quality improvement standard thresholds. An opioid prescriber and any provider group that receives a notice under this paragraph shall submit to the commissioner a quality improvement plan for review and approval by the commissioner with the goal of bringing the opioid prescriber's prescribing practices into alignment with community standards. A quality improvement plan must include:

(1) components of the program described in subdivision 4, paragraph (a);

(2) internal practice-based measures to review the prescribing practice of the opioid prescriber and, where appropriate, any other opioid prescribers employed by or affiliated with any of the provider groups with which the opioid prescriber is employed or affiliated; and

(3) appropriate use of the prescription monitoring program under section 152.126.

(c) If, after a year from the commissioner's notice under paragraph (b), the opioid prescriber's prescribing practices do not improve so that they are consistent with community standards, the commissioner ~~shall~~ may take one or more of the following steps:

(1) monitor prescribing practices more frequently than annually;

(2) monitor more aspects of the opioid prescriber's prescribing practices than the sentinel measures; or

(3) require the opioid prescriber to participate in additional quality improvement efforts, including but not limited to mandatory use of the prescription monitoring program established under section 152.126.

(d) The commissioner shall terminate from Minnesota health care programs all opioid prescribers and provider groups whose prescribing practices fall within the applicable opioid disenrollment standards.

(e) No physician, advanced practice registered nurse, or physician assistant, acting in good faith based on the needs of the patient, may be disenrolled by the commissioner of human services solely for prescribing a dosage that equates to an upward deviation from morphine milligram equivalent dosage recommendations specified in state or federal opioid

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providers. The commissioner shall annually collect and report to provider groups the sentinel measures of data showing individual opioid prescribers' opioid prescribing patterns compared to their anonymized peers. Provider groups shall distribute data to their affiliated, contracted, or employed opioid prescribers.

(b) The commissioner shall notify an opioid prescriber and all provider groups with which the opioid prescriber is employed or affiliated when the opioid prescriber's prescribing pattern exceeds the opioid quality improvement standard thresholds. An opioid prescriber and any provider group that receives a notice under this paragraph shall submit to the commissioner a quality improvement plan for review and approval by the commissioner with the goal of bringing the opioid prescriber's prescribing practices into alignment with community standards. A quality improvement plan must include:

(1) components of the program described in subdivision 4, paragraph (a);

(2) internal practice-based measures to review the prescribing practice of the opioid prescriber and, where appropriate, any other opioid prescribers employed by or affiliated with any of the provider groups with which the opioid prescriber is employed or affiliated; and

(3) ~~appropriate use of the prescription monitoring program under section 152.126~~ demonstration of patient-centered care consistent with community standards of care.

(c) If, after a year from the commissioner's notice under paragraph (b), the opioid prescriber's prescribing practices for treatment of acute or postacute pain do not improve so that they are consistent with community standards, the commissioner ~~shall~~ may take one or more of the following steps:

(1) require the prescriber, the provider group, or both, to monitor prescribing practices more frequently than annually;

(2) monitor more aspects of the opioid prescriber's prescribing practices than the sentinel measures; or

(3) require the opioid prescriber to participate in additional quality improvement efforts~~, including but not limited to mandatory use of the prescription monitoring program established under section 152.126~~.

(d) Prescribers treating patients who are on chronic, high doses of opioids must meet community standards of care, including performing regular assessments and addressing unwarranted risks of opioid prescribing, but are not required to show measurable changes in chronic pain prescribing thresholds within a certain period.

(e) The commissioner shall dismiss a prescriber from participating in the opioid prescribing quality improvement program on an annual basis when the prescriber demonstrates that the prescriber's practices are patient-centered and reflect community standards for safe and compassionate treatment of patients experiencing pain.

prescribing guidelines or policies, or quality improvement thresholds established under this section.

~~(d)~~ (f) The commissioner ~~shall terminate from Minnesota health care programs~~ may investigate for possible sanctions under section 256B.064 all opioid prescribers and provider groups whose prescribing practices fall within the applicable opioid ~~disenrollment~~ sanction standards.

~~(e)~~ (g) No physician, advanced practice registered nurse, or physician assistant, acting in good faith based on the needs of the patient, may be disenrolled by the commissioner of human services solely for prescribing a dosage that equates to an upward deviation from morphine milligram equivalent dosage recommendations specified in state or federal opioid prescribing guidelines or policies, or quality improvement thresholds established under this section.

Sec. 5. Minnesota Statutes 2022, section 256B.0638, is amended by adding a subdivision to read:

Subd. 6a. **Waiver for certain provider groups.** (a) This section does not apply to prescribers employed by, or under contract or affiliated with, a provider group for which the commissioner has granted a waiver from the requirements of this section.

(b) The commissioner, in consultation with opioid prescribers, shall develop waiver criteria for provider groups, and shall make waivers available beginning July 1, 2023. In granting waivers, the commissioner shall consider whether the medical director of the provider group and a majority of the practitioners within a provider group have specialty training, fellowship training, or experience in treating chronic pain. Waivers under this subdivision shall be granted on an annual basis.

Sec. 4. **REPEALER.**

Minnesota Statutes 2022, section 256B.0638, subdivisions 1, 2, 3, 4, 5, and 6, are repealed.

EFFECTIVE DATE. This section is effective June 30, 2024.

Sec. 6. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES; OPIOID PRESCRIBING IMPROVEMENT PROGRAM SUNSET.**

The commissioner of human services shall recommend criteria to provide for a sunset of the opioid prescribing improvement program under Minnesota Statutes, section 256B.0638. In developing sunset criteria, the commissioner shall consult with stakeholders including but not limited to clinicians that practice pain management, addiction medicine, or mental health, and either current or former Minnesota health care program enrollees who use or have used opioid therapy to manage chronic pain. By January 15, 2024, the commissioner

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shall submit recommended criteria to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services finance and policy.