

180.21

ARTICLE 6

180.22

OPIOID PRESCRIBING IMPROVEMENT PROGRAM

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

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

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

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

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

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

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

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

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

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

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

137.25

ARTICLE 5

137.26

OPIOID PRESCRIBING IMPROVEMENT PROGRAM

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

181.30 (2) developing sentinel measures;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

139.11 (2) developing sentinel measures;

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

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

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

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

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

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

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

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

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

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

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

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

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

183.9 (1) monitor prescribing practices more frequently than annually;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

183.24 Sec. 4. **REPEALER.**

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

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

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

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

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