

Approved by
Revisor of Statutes



1.1 Liebling from the Health and Human Services Finance Division to which was referred:

1.2 H. F. No. 400, A bill for an act relating to health; establishing the Opioid Addiction
1.3 Advisory Council; establishing the opioid stewardship account; establishing an opiate
1.4 product registration fee; modifying provisions related to opioid addiction prevention,
1.5 education, intervention, treatment, and recovery; requiring reports; appropriating money;
1.6 amending Minnesota Statutes 2018, sections 16A.151, subdivision 2; 145.9269, subdivision
1.7 1; 151.252, subdivision 1; 151.37, subdivision 12; 151.47, by adding a subdivision; 151.71,
1.8 by adding a subdivision; 152.105, subdivision 2; 152.11, subdivisions 2d, 4, by adding
1.9 subdivisions; 214.12, by adding a subdivision; proposing coding for new law in Minnesota
1.10 Statutes, chapters 62Q; 144; 145; 151.

1.11 Reported the same back with the following amendments to the first division engrossment
1.12 (DIVH0400-1):

1.13 Page 2, delete lines 11 to 14 and insert:

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

1.22 Page 2, before line 15, insert:

1.23 **"Sec. 2. [16A.7245] OPIOID STEWARDSHIP FUND.**

1.24 An opioid stewardship fund is created in the state treasury. The commissioner shall
1.25 deposit to the credit of the fund the registration fees collected by the Board of Pharmacy
1.26 under section 151.77 and any other money made available to the fund. Notwithstanding
1.27 section 11A.20, all investment income and all investment losses attributable to the investment

2.1 of the opioid stewardship fund not currently needed must be credited to the opioid
 2.2 stewardship fund."

2.3 Page 4, lines 21 and 25, delete "account" and insert "fund"

2.4 Page 6, line 14, delete "OPIOID STEWARDSHIP ACCOUNT" and insert "USE OF
 2.5 OPIOID STEWARDSHIP FUND"

2.6 Page 6, delete subdivision 1

2.7 Renumber the subdivisions in sequence

2.8 Page 6, line 19, delete the first "account" and delete the second "account" and insert
 2.9 "opioid stewardship fund established under section 16A.7245"

2.10 Page 6, line 22, delete "account" and insert "fund"

2.11 Page 10, line 8, before "All" insert "(a)"

2.12 Page 10, after line 11, insert:

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

2.15 Page 10, delete article 3, section 1, and insert:

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

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

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

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

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

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

3.1 (5) a document of gift for the purpose of making an anatomical gift, as set forth in chapter
3.2 525A, or an amendment to, revocation of, or refusal to make an anatomical gift;

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

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

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

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

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

3.15 (11) health care instructions regarding artificially administered nutrition or hydration;
3.16 and

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

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

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

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

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

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

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

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

4.10 Page 16, line 8, delete everything before "appropriated" and insert "\$288,000 in fiscal
 4.11 year 2020 and \$288,000 in fiscal year 2021 are" and delete everything after "stewardship"

4.12 Page 16, line 9, delete everything before "fund"

4.13 Page 16, line 13, after the period, insert "This is an ongoing appropriation from the
 4.14 opioid stewardship fund."

4.15 Page 16, line 15, delete "\$....." and insert "\$8,802,000" and delete everything after
 4.16 "stewardship"

4.17 Page 16, line 16, delete everything before "fund"

4.18 Page 16, line 21, after "agencies" insert "and tribal social service agency initiative projects
 4.19 authorized by the commissioner under section 256.01, subdivision 14b,"

4.20 Page 16, line 22, after "counties" insert "and tribes"

4.21 Page 16, line 23, delete "in the county"

4.22 Page 16, line 30, delete everything after "used"

4.23 Page 17, line 1, delete "(1)" and insert "for"

4.24 Page 17, line 3, delete "; and" and insert a period

4.25 Page 17, delete lines 4 to 6

4.26 Page 17, line 11, delete "\$....." and insert "\$2,000,000"

4.27 Page 17, line 12, delete "account in the state government special revenue"

4.28 Page 17, line 16, delete "\$....." and insert "\$2,400,000"

4.29 Page 17, line 17, delete "account in the state government special revenue"

- 5.1 Page 17, line 21, delete "\$....." and insert "\$1,250,000"
- 5.2 Page 17, line 22, delete "account in the state government special revenue"
- 5.3 Page 17, line 25; after "resources" insert ", including access to implantable and
- 5.4 nonimplantable medical devices"
- 5.5 Page 17, line 27, after "resources" insert ", including implantable and nonimplantable
- 5.6 medical devices,"
- 5.7 Page 18, line 5, delete "\$..... is" and insert "\$4,520,000 in fiscal year 2020 and
- 5.8 \$4,520,000 in fiscal year 2021 are" and delete everything after "stewardship"
- 5.9 Page 18, line 6, delete "revenue"
- 5.10 Page 18, line 17, after the period, insert "Base funding for these grants is \$4,520,000
- 5.11 for fiscal year 2022 and \$4,520,000 for fiscal year 2023."
- 5.12 Page 18, delete lines 18 to 20 and insert:
- 5.13 "(b) Of the appropriation in paragraph (a), \$3,300,000 each fiscal year is for the
- 5.14 commissioner to provide grants of equal value to each tribe and to apportion an additional
- 5.15 amount among the tribes based on the number of tribal members."
- 5.16 Page 18, line 21, delete "The commissioner shall" and insert "Of the appropriation in
- 5.17 paragraph (a), \$1,250,000 each fiscal year is for the commissioner to"
- 5.18 Page 18, line 23, delete "\$....." and insert "\$250,000"
- 5.19 Page 18, after line 23, insert:
- 5.20 "Subd. 5. Administration. \$890,000 in fiscal year 2020 and \$702,000 in fiscal year
- 5.21 2021 are appropriated from the opioid stewardship fund to the commissioner of health to
- 5.22 administer the programs in this section. The base for administration is \$485,000 in fiscal
- 5.23 year 2022 and \$485,000 in fiscal year 2023."
- 5.24 Page 18, line 25, delete "\$....." and insert "\$9,000"
- 5.25 Page 18, line 26, delete everything after "stewardship"
- 5.26 Page 18, line 30, delete "\$....." and insert "\$17,000"
- 5.27 Page 18, line 31, delete everything after "stewardship"
- 5.28 Page 19, line 1, delete "\$....." and insert "\$5,000"
- 5.29 Page 19, line 2, delete everything after "stewardship"
- 5.30 Page 19, line 5, delete "\$....." and insert "\$5,000"

6.1 Page 19, line 6, delete everything after "stewardship"

6.2 Page 19, line 7, delete "revenue"

6.3 Page 19, line 9, delete "\$....." and insert "\$17,000"

6.4 Page 19, line 10, delete everything after "stewardship"

6.5 Page 19, line 14, delete "\$....." and insert "\$284,000" and delete "is" and insert "and
6.6 \$126,000 in fiscal year 2021 are"

6.7 Page 19, line 15, delete "account in the state government special revenue"

6.8 Page 19, line 16, after the period insert "This is an ongoing appropriation from the opioid
6.9 stewardship fund."

6.10 Renumber the sections in sequence

6.11 Amend the title as follows:

6.12 Page 1, line 3, delete "account" and insert "fund"

6.13 Correct the title numbers accordingly

6.14 With the recommendation that when so amended the bill be returned to the Committee
6.15 on Ways and Means.

6.16 This Division action taken February 28, 2019

6.17, Chair