SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 858

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02/07/2019		Introduction and first reading
		Referred to Health and Human Services Finance and Policy

A bill for an act

relating to health; requiring certain uses of the Minnesota prescription monitoring program; amending Minnesota Statutes 2018, sections 152.126, subdivision 9, by adding a subdivision; 256B.0638, subdivision 5.

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

Section 1. Minnesota Statutes 2018, section 152.126, is amended by adding a subdivision to read:

Subd. 6a. **Use of prescription monitoring program.** Before initially prescribing or dispensing an opioid to a patient, a prescriber or dispenser must query the prescription electronic reporting system in order to review any controlled substance prescription data reported to the system about that patient. The prescriber or dispenser must also perform periodic queries of the system if treatment with opioids continues for more than 30 days. A query must be done the first time that an opioid is prescribed or dispensed after the end of the initial 30-day period, and at least every 90 days thereafter. The initial and subsequent queries need not be performed if:

(1) the drug is prescribed and dispensed to a hospice patient or to any other patient who has been diagnosed as terminally ill;

(2) the drug is prescribed and dispensed for the treatment of cancer;

(3) the drug is prescribed and dispensed for administration to a patient who has been admitted to a hospital, provided that, within 12 hours of admission, the prescriber or dispenser queries the system and reviews any controlled substance prescription data reported to the system about that patient and a record of the review and any pertinent information is placed

in the patient's medical records so that it can be accessed during the patient's stay in the facility;

(4) the drug is prescribed and dispensed to treat acute pain resulting from a surgical or other invasive procedure or a delivery, provided that if use of the drug for such purpose continues for more than 30 days beyond the date of the procedure or delivery, the periodic queries of the system required in this subdivision shall be performed;

(5) the drug is administered during an emergency or within an ambulance; or

(6) the prescription electronic reporting system cannot be accessed due to a technological issue or power failure, in which case the prescriber or dispenser must document in the patient's record the reason the system could not be accessed.

Sec. 2. Minnesota Statutes 2018, section 152.126, subdivision 9, is amended to read:

Subd. 9. **Immunity from liability~~; no requirement to obtain information~~.** (a) A pharmacist, prescriber, or other dispenser making a report to the program in good faith under this section is immune from any civil, criminal, or administrative liability, which might otherwise be incurred or imposed as a result of the report, or on the basis that the pharmacist or prescriber did or did not seek or obtain or use information from the program.

(b) ~~Nothing in this section shall require a pharmacist, prescriber, or other dispenser to obtain information about a patient from the program, and the~~ A pharmacist, prescriber, or other dispenser, if acting in good faith, is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting, receiving, or using information from the program.

Sec. 3. Minnesota Statutes 2018, 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 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 opioid prescribers data showing the sentinel measures of their opioid prescribing patterns compared to their anonymized peers.

(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 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.