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H.745

Introduced by Representative Pugh of South Burlington

Referred to Committee on

Date:

Subject: Health; prescription drugs; Vermont prescription monitoring system

Statement of purpose: This bill proposes to require health care providers to search the VPMS prior to prescribing a controlled substance. In addition, it expands the category of people who may access the VPMS. This bill also creates a unified pain management system advisory council.

An act relating to the Vermont prescription monitoring system

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1. 18 V.S.A. § 4282 is amended to read:~~

~~§ 4282. DEFINITIONS~~

~~As used in this chapter:~~

~~* * *~~

~~(2) "Health care provider" shall mean an individual licensed, certified, or authorized by law to provide professional health care service in this state or any other state to an individual during that individual's medical or dental care, treatment, or confinement.~~

~~* * *~~

1 ~~Sec. 2. 18 V.S.A. § 4283 is amended to read:~~

2 § 4283. CREATION; IMPLEMENTATION

3 (a) Contingent upon the receipt of funding, the department may establish an
4 electronic database and reporting system for monitoring Schedules II, III, and
5 IV controlled substances, as defined in 21 C.F.R. Part 1308, as amended and as
6 may be amended, that are dispensed within the state of Vermont by a health
7 care provider or dispenser or dispensed to an address within the state by a
8 pharmacy licensed by the Vermont board of pharmacy.

9 (b) As required by the department, every dispenser who is licensed by the
10 Vermont board of pharmacy shall report to the department in a timely manner
11 data for each controlled substance in Schedules II, III, and IV, as amended and
12 as may be amended, dispensed to a patient within Vermont. Reporting shall not
13 be required for:

14 (1) a drug administered directly to a patient; or

15 (2) a drug dispensed by a health care provider at a facility licensed by
16 the department, provided that the quantity dispensed is limited to an amount
17 adequate to treat the patient for a maximum of 48 hours.

18 (c) Data for each controlled substance that is dispensed shall include the
19 following:

20 (1) patient identifier, which may include the patient's name and date of
21 birth;

- 1 ~~(2) drug dispensed;~~
2 (3) date of dispensing;
3 (4) quantity and dosage dispensed;
4 (5) the number of days' supply;
5 (6) health care provider; and
6 (7) dispenser.

7 (d) The data shall be provided in the electronic format defined by the
8 department. To the extent possible, the format shall not require data entry in
9 excess of that required in the regular course of business. Electronic
10 transmission is not required if a waiver has been granted by the department to
11 an individual dispenser. The department shall strive to create VPMS in a
12 manner that will enable real-time transmittal to VPMS and real-time retrieval
13 of information stored in VPMS.

14 (e) All health care providers licensed in this state shall search the VPMS
15 before prescribing or refilling prescriptions for a controlled substance in
16 Schedules II, III, and IV.

17 (f) It is not the intention of the department that a health care provider or a
18 dispenser shall have to pay a fee or tax or purchase hardware or proprietary
19 software required by the department specifically for the use, establishment,
20 maintenance, or transmission of the data. The department shall seek grant

1 ~~funds and take any other action within its financial capability to minimize any~~
2 cost impact to health care providers and dispensers.

3 ~~(f)(g)~~ The department shall purge from VPMS all data that is more than six
4 years old.

5 ~~(g)(h)~~ The commissioner shall develop and provide advisory notices, which
6 shall make clear that all prescriptions for controlled drugs in Schedules II, III,
7 and IV are entered into a statewide database in order to protect the public. The
8 notices shall be distributed at no cost to dispensers and health care providers
9 who are subject to this chapter.

10 ~~(h)(i)(1)~~ A dispenser shall be subject to discipline by the board of
11 pharmacy or by the applicable licensing entity if the dispenser intentionally
12 fails to comply with the requirements of subsection (b), (c), or (d) of this
13 section.

14 (2) A health care provider licensed in this state shall be subject to
15 discipline by the applicable licensing authority if the health care provider
16 intentionally fails to comply with the requirements of subsection (e) of this
17 section.

18 Sec. 3. 18 V.S.A. § 4284 is amended to read:

19 § 4284. PROTECTION AND DISCLOSURE OF INFORMATION

20 (a) The data collected pursuant to this chapter shall be confidential, except
21 as provided in this chapter, and shall not be subject to public records law. The

1 ~~department shall maintain procedures to protect patient privacy, ensure the~~
2 ~~confidentiality of patient information collected, recorded, transmitted, and~~
3 ~~maintained, and ensure that information is not disclosed to any person except~~
4 ~~as provided in this section.~~

5 (b) The department shall be authorized to provide data to only the
6 following persons:

7 (1) A patient or that person's health care provider, or both, when VPMS
8 reveals that a patient may be receiving more than a therapeutic amount of one
9 or more regulated substances.

10 (2) A health care provider or dispenser who requests information and
11 certifies that the requested information is for the purpose of providing medical
12 or pharmaceutical treatment to a bona fide current patient.

13 (3) A designated representative of a board responsible for the licensure,
14 regulation, or discipline of health care providers or dispensers pursuant to a
15 bona fide specific investigation.

16 (4) A patient for whom a prescription is written, insofar as the
17 information relates to that patient.

18 (5) The relevant occupational licensing or certification authority if the
19 commissioner reasonably suspects fraudulent or illegal activity by a health care
20 provider. The licensing or certification authority may report the data that are

1 ~~the evidence for the suspected fraudulent or illegal activity to a trained law~~
2 enforcement officer.

3 ~~(6)(A) The commissioner of public safety, personally, if the~~
4 commissioner of health personally makes the disclosure, has consulted with at
5 least one of the patient's health care providers, and believes that the disclosure
6 is necessary to avert a serious and imminent threat to a person or the public; or

7 ~~(B) The commissioner of public safety, personally, when he or she~~
8 requests data from the commissioner of health for the purpose of averting what
9 in the commissioner of public safety's discretion is a serious and imminent
10 threat to a person or to the public.

11 (7) Personnel or contractors, as necessary for establishing and
12 maintaining the VPMS.

13 (8) The medical director of the department of Vermont health access for
14 the purposes of Medicaid quality assurance, utilization, and federal monitoring
15 requirements with respect to Medicaid recipients for whom a Medicaid claim
16 for a controlled substance in Schedule II, III, or IV has been submitted.

17 (9) A medical examiner from the office of the chief medical examiner
18 for the purpose of conducting an investigation or inquiry into the cause,
19 manner, and circumstances of an individual's death.

20 (10) A duly authorized representative of a department or agency in
21 another state, territory, or possession of the United States that maintains

1 ~~prescription information in a data system with privacy, security, and disclosure~~
2 ~~protections consistent with this chapter and pursuant to a reciprocal agreement~~
3 ~~to share prescription monitoring information with the department of health as~~
4 ~~described in section 4288 of this title.~~

5 (c) A person who receives data or a report from VPMS or from the
6 department shall not share that data or report with any other person or entity
7 not eligible to receive that data pursuant to subsection (b) of this section.
8 Nothing shall restrict the right of a patient to share his or her own data.

9 (d) The commissioner shall offer health care providers and dispensers
10 training in the proper use of information they may receive from VPMS.
11 Training may be provided in collaboration with professional associations
12 representing health care providers and dispensers.

13 (e) A trained law enforcement officer who may receive information
14 pursuant to this section shall not have access to VPMS except for information
15 provided to the officer by the licensing or certification authority.

16 (f) The department is authorized to use information from VPMS for
17 research and public health promotion purposes provided that data are
18 aggregated or otherwise de-identified.

19 (g) Knowing disclosure of transmitted data to a person not authorized by
20 subsection (b) of this section, or obtaining information under this section not
21 relating to a bona fide specific investigation, shall be punishable by

1 ~~imprisonment for not more than one year or a fine of not more than \$1,000.00,~~
2 or both, in addition to any penalties under federal law.

3 Sec. 4. 18 V.S.A. § 4286 is amended to read:

4 § 4286. ADVISORY COMMITTEE

5 * * *

6 (d) The committee shall issue a report to the senate and house committees
7 on judiciary, the senate committee on health and welfare, and the house
8 committee on human services no later than January 15th in 2008, 2010, ~~and~~
9 2012, and 2014.

10 (e) This section shall sunset ~~on July 1, 2012~~ 2014, and thereafter the
11 committee shall cease to exist.

12 Sec. 5. 18 V.S.A. § 4287 is amended to read:

13 § 4287. RULEMAKING

14 The department shall adopt rules for the implementation of VPMS as
15 defined in this chapter consistent with 45 C.F.R. Part 164, as amended and as
16 may be amended, that limit the disclosure to the minimum information
17 necessary for purposes of this act ~~and shall keep the senate and house~~
18 ~~committees on judiciary, the senate committee on health and welfare, and the~~
19 ~~house committee on human services advised of the substance and progress of~~
20 ~~initial rulemaking pursuant to this section.~~

1 ~~Sec. 6. 18 V.S.A. § 4288 is added to read:~~

2 § 4288. RECIPROCAL AGREEMENTS

3 The department of health may enter into reciprocal agreements with other
4 states, territories, or possessions of the United States that have prescription
5 monitoring programs consistent with privacy, security, and disclosure
6 protections consistent with this chapter.

7 Sec. 7. UNIFIED PAIN MANAGEMENT SYSTEM ADVISORY COUNCIL

8 (a) There is hereby created a unified pain management system advisory
9 council for the purpose of advising the commissioner of health on matters
10 relating to the appropriate use of controlled substances in treating chronic pain
11 and addiction and in preventing prescription drug abuse.

12 (b) The unified pain management system advisory council shall consist of
13 the following members:

14 (1) the commissioner of health or designee, who shall serve as chair;

15 (2) the deputy commissioner of health for alcohol and drug abuse
16 programs or designee;

17 (3) the commissioner of mental health or designee;

18 (4) the commissioner of public safety or designee;

19 (5) the chair of the board of medical practice or designee;

20 (6) a representative of the Vermont state dental society;

21 (7) a representative of the Vermont board of pharmacy;

1 ~~(8) a faculty member from the academic detailing program at the~~
2 ~~University of Vermont's College of Medicine;~~

3 ~~(9) a faculty member from the University of Vermont's College of~~
4 ~~Medicine with expertise in the treatment of addiction or chronic pain~~
5 ~~management;~~

6 ~~(10) a representative of the Vermont Medical Society;~~

7 ~~(11) a representative of the Vermont Ethics Network;~~

8 ~~(12) a representative of the Hospice and Palliative Care Council of~~
9 ~~Vermont; and~~

10 ~~(13) a representative of the office of the health care ombudsman.~~

11 ~~(c) Advisory council members who are not employed by the state shall be~~
12 ~~entitled to per diem and expenses as provided by 32 V.S.A. § 1010.~~

13 ~~(d) A majority of the members of the advisory council shall constitute a~~
14 ~~quorum. The advisory council shall act only by vote of a majority of its entire~~
15 ~~membership and only at meetings called by the chair or by any three of the~~
16 ~~members.~~

17 ~~(e) The commissioner of health may seek grants and other sources of~~
18 ~~funding from public and private sources to support the work of the advisory~~
19 ~~council, including funds from manufacturers of prescribed products, as defined~~
20 ~~in subsection 4631a(a) of this title, provided manufacturers neither attach~~

1 ~~conditions to the use of funds nor use the advisory council's receipt of funds to~~
2 promote manufacturers' products.

3 (f) To the extent funds are available, the advisory council shall have the
4 following duties:

5 (1) to develop and recommend principles and components of a unified
6 pain management system, including the appropriate use of controlled
7 substances in treating chronic pain and addiction and in preventing prescription
8 drug abuse; and

9 (2) to identify and recommend components of evidence-based training
10 modules and minimum requirements for the continuing education of all
11 licensed health care providers in the state who treat chronic pain or addiction
12 or prescribe controlled substances in Schedule II, III, or IV consistent with a
13 unified pain management system.

14 (g) The commissioner of health may designate subcommittees as
15 appropriate to carry out the work of the advisory council.

16 (h) On or before January 15, 2013, the advisory council shall submit its
17 recommendations to the senate committee on health and welfare, the house
18 committee on human services, and the house committee on health care.

1 ~~Sec. 8. EFFECTIVE DATES~~

2 ~~This section and Sec. 4 of this act shall take effect on passage and shall~~
3 ~~apply retroactively as of January 15, 2012. All other sections of this act shall~~
4 ~~take effect on July 1, 2012.~~

Sec. 1. PURPOSE

It is the purpose of this act to maximize the effectiveness and appropriate utilization of the Vermont prescription monitoring system, which serves as an important tool in promoting public health by providing opportunities for treatment for and prevention of abuse of controlled substances without interfering with the legal medical use of those substances.

Sec. 1a. 18 V.S.A. § 4201(26) is amended to read:

(26) "Prescription" means an order for a regulated drug made by a physician, dentist, or veterinarian licensed under this chapter to prescribe such a drug which shall be in writing except as otherwise specified ~~herein~~ in this subdivision. Prescriptions for such drugs shall be made to the order of an individual patient, dated as of the day of issue and signed by the prescriber. The prescription shall bear the full name ~~and~~ address, and date of birth of the patient, or if the patient is an animal, the name and address of the owner of the animal and the species of the animal. Such prescription shall also bear the full name, address, and registry number of the prescriber and shall be written with ink, indelible pencil, or typewriter; if typewritten, it shall be signed by the

physician. A prescription for a controlled substance, as defined in 21 C.F.R. Part 1308, shall contain the quantity of the drug written both in numeric and word form.

Sec. 2. 18 V.S.A. § 4215b is added to read:

§ 4215b. IDENTIFICATION

Prior to dispensing a prescription for a Schedule II, III, or IV controlled substance, a pharmacist shall require the individual receiving the drug to provide a signature and show valid and current government-issued photographic identification as evidence that the individual is the patient for whom the prescription was written, the owner of the animal for which the prescription was written, or the bona fide representative of the patient or animal owner. If the individual does not have valid, current government-issued photographic identification, the pharmacist may request alternative evidence of the individual's identity, as appropriate.

Sec. 3. 18 V.S.A. § 4218 is amended to read:

§ 4218. ENFORCEMENT

** * **

(d) Nothing in this section shall authorize the department of public safety and other authorities described in subsection (a) of this section to have access to VPMS (Vermont prescription monitoring system) created pursuant to chapter 84A of this title, except as provided in that chapter.

(e) Notwithstanding subsection (d) of this section, a drug diversion investigator, as defined in section 4282 of this title, with a warrant may request VPMS data from the department of health pursuant to subdivision 4284(b)(2)(F) of this title.

(f) The department of public safety shall adopt a written policy and protocols for accessing pharmacy records through the authority granted in this section. These policies and protocols shall be a public record.

Sec. 3a. DEPARTMENT OF PUBLIC SAFETY; REPORTING POLICIES

AND PROTOCOLS

No later than December 15, 2012, the commissioner of public safety shall submit to the house and senate committees on judiciary, the house committee on human services, and the senate committee on health and welfare the department's written policy and protocols used to access pharmacy records at individual pharmacies pursuant to 18 V.S.A. § 4218. Subsequently, if the policy and protocols are substantively amended by the department, it shall submit the amended policy and protocols to the same committees as soon as practicable.

Sec. 4. [DELETED]

Sec. 5. 18 V.S.A. § 4282 is amended to read:

§ 4282. DEFINITIONS

As used in this chapter:

* * *

(5) “Delegate” means an individual employed by a health care facility or pharmacy or in the office of the chief medical examiner and authorized by a health care provider or dispenser or by the chief medical examiner to request information from the VPMS relating to a bona fide current patient of the health care provider or dispenser or to a bona fide investigation or inquiry into an individual’s death.

(6) “Department” means the department of health.

(7) “Drug diversion investigator” means an employee of the department of public safety whose primary duties include investigations involving violations of laws regarding prescription drugs or the diversion of prescribed controlled substances, and who has completed a training program established by the department of health by rule that is designed to ensure that officers have the training necessary to use responsibly and properly any information that they receive from the VPMS.

Sec. 6. 18 V.S.A. § 4283 is amended to read:

§ 4283. CREATION; IMPLEMENTATION

(a) ~~Contingent upon the receipt of funding, the~~ The department may establish shall maintain an electronic database and reporting system for monitoring Schedules II, III, and IV controlled substances, as defined in 21 C.F.R. Part 1308, as amended and as may be amended, that are dispensed

within the state of Vermont by a health care provider or dispenser or dispensed to an address within the state by a pharmacy licensed by the Vermont board of pharmacy.

* * *

(e) It is not the intention of the department that a health care provider or a dispenser shall have to pay a fee or tax or purchase hardware or proprietary software required by the department specifically for the use, establishment, maintenance, or transmission of the data. The department shall seek grant funds and take any other action within its financial capability to minimize any cost impact to health care providers and dispensers.

* * *

Sec. 7. 18 V.S.A. § 4284 is amended to read:

§ 4284. PROTECTION AND DISCLOSURE OF INFORMATION

(a) The data collected pursuant to this chapter and all related information and records shall be confidential, except as provided in this chapter, and shall not be subject to public records law. The department shall maintain procedures to protect patient privacy, ensure the confidentiality of patient information collected, recorded, transmitted, and maintained, and ensure that information is not disclosed to any person except as provided in this section.

(b)(1) The department shall ~~be authorized to provide data to only~~ allow only the following persons to query the VPMS:

~~(1) A patient or that person's health care provider, or both, when VPMS reveals that a patient may be receiving more than a therapeutic amount of one or more regulated substances.~~

~~(2)(A) A health care provider or dispenser, or delegate who requests information is registered with the VPMS and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient.~~

~~(B) Personnel or contractors, as necessary for establishing and maintaining the VPMS.~~

~~(C) The medical director of the department of Vermont health access, for the purposes of Medicaid quality assurance, utilization, and federal monitoring requirements with respect to Medicaid recipients for whom a Medicaid claim for a Schedule II, III, or IV controlled substance has been submitted.~~

~~(D) A medical examiner from the office of the chief medical examiner, for the purpose of conducting an investigation or inquiry into the cause, manner, and circumstances of an individual's death.~~

~~(E) A health care provider or medical examiner licensed to practice in another state, to the extent necessary to provide appropriate medical care to a Vermont resident or to investigate the death of a Vermont resident.~~

(2) The department shall provide reports of data available to the department through the VPMS only to the following persons:

(A) A patient or that person's health care provider, or both, when VPMS reveals that a patient may be receiving more than a therapeutic amount of one or more regulated substances.

~~(3)~~(B) A designated representative of a board responsible for the licensure, regulation, or discipline of health care providers or dispensers pursuant to a bona fide specific investigation.

~~(4)~~(C) A patient for whom a prescription is written, insofar as the information relates to that patient.

~~(5)~~(D) The relevant occupational licensing or certification authority if the commissioner reasonably suspects fraudulent or illegal activity by a health care provider. The licensing or certification authority may report the data that are the evidence for the suspected fraudulent or illegal activity to a ~~trained law enforcement officer~~ drug diversion investigator.

~~(6)~~(E)(i) The commissioner of public safety, personally, or the deputy commissioner of public safety, personally, if the commissioner of health, personally, or the deputy commissioner for alcohol and drug abuse programs, personally, makes the disclosure, has consulted with at least one of the patient's health care providers, and believes that the disclosure is necessary to avert a serious and imminent threat to a person or the public.

(ii) The commissioner of public safety, personally, or the deputy commissioner of public safety, personally, when he or she requests data from the commissioner of health, and the commissioner of health believes, after consultation with at least one of the patient's health care providers, that disclosure is necessary to avert a serious and imminent threat to a person or the public.

(iii) The commissioner or deputy commissioner of public safety may disclose such data received pursuant to this subdivision (E) as is necessary, in his or her discretion, to avert the serious and imminent threat.

~~(7) Personnel or contractors, as necessary for establishing and maintaining the VPMS.~~

(F) A drug diversion investigator, as defined in section 4282 of this section, with a warrant.

(G) A prescription monitoring system or similar entity in another state pursuant to a reciprocal agreement to share prescription monitoring information with the Vermont department of health as described in section 4288 of this title.

(c) A person who receives data or a report from VPMS or from the department shall not share that data or report with any other person or entity not eligible to receive that data pursuant to subsection (b) of this section, except as necessary and consistent with the purpose of the disclosure and in

the normal course of business. Nothing shall restrict the right of a patient to share his or her own data.

(d) The commissioner shall offer health care providers and dispensers training in the proper use of information they may receive from VPMS. Training may be provided in collaboration with professional associations representing health care providers and dispensers.

(e) A ~~trained law enforcement officer~~ drug diversion investigator who may receive information pursuant to this section shall not have access to VPMS except for information provided to the ~~officer~~ investigator by the licensing or certification authority.

(f) The department is authorized to use information from VPMS for research and public health promotion purposes provided that data are aggregated or otherwise de-identified.

(g) Knowing disclosure of transmitted data to a person not authorized by subsection (b) of this section, or obtaining information under this section not relating to a bona fide specific investigation, shall be punishable by imprisonment for not more than one year or a fine of not more than \$1,000.00, or both, in addition to any penalties under federal law.

(h) All information and correspondence relating to the disclosure of information by the commissioner to a patient's health care provider pursuant to subdivision (b)(2)(A) of this section shall be confidential and privileged.

exempt from the public access to records law, immune from subpoena or other disclosure, and not subject to discovery or introduction into evidence.

(i) Each request for disclosure of data pursuant to subdivision (b)(2)(B) of this section shall document a bona fide specific investigation and shall specify the name of the person who is the subject of the investigation.

(j) Each request for disclosure of data pursuant to a warrant or to subdivision (b)(2)(E) of this section shall document a bona fide specific investigation and shall specify the name of the person who is the subject of the investigation.

Sec. 8. 18 V.S.A. § 4286 is amended to read:

§ 4286. **ADVISORY COMMITTEE**

(a)(1) *The commissioner shall establish an advisory committee to assist in the implementation and periodic evaluation of VPMS.*

(2) *The department shall consult with the committee concerning any potential operational or economic impacts on dispensers and health care providers related to transmission system equipment and software requirements.*

(3) *The committee shall develop guidelines for use of VPMS by dispensers ~~and~~ health care providers, and delegates, and shall make recommendations concerning under what circumstances, if any, the department shall or may give VPMS data, including data thresholds for such*

disclosures, to law enforcement personnel. The committee shall also review and approve advisory notices prior to publication.

(4) The committee shall make recommendations regarding ways to improve the utility of the VPMS and its data.

(5) The committee shall have access to aggregated, de-identified data from the VPMS.

* * *

(d) The committee shall issue a report to the senate and house committees on judiciary, the senate committee on health and welfare, and the house committee on human services no later than January 15th in 2008, 2010, ~~and~~ 2012, and 2014.

(e) This section shall sunset on July 1, ~~2012~~ 2014 and thereafter the committee shall cease to exist.

Sec. 9. 18 V.S.A. § 4287 is amended to read:

§ 4287. RULEMAKING

The department shall adopt rules for the implementation of VPMS as defined in this chapter consistent with 45 C.F.R. Part 164, as amended and as may be amended, that limit the disclosure to the minimum information necessary for purposes of this act ~~and shall keep the senate and house committees on judiciary, the senate committee on health and welfare, and the~~

~~house committee on human services advised of the substance and progress of initial rulemaking pursuant to this section.~~

Sec. 10. 18 V.S.A. § 4288 is added to read:

§ 4288. RECIPROCAL AGREEMENTS

The department of health may enter into reciprocal agreements with other states that have prescription monitoring programs so long as access under such agreement is consistent with the privacy, security, and disclosure protections in this chapter.

Sec. 11. 18 V.S.A. § 4289 is added to read:

§ 4289. STANDARDS AND GUIDELINES FOR HEALTH CARE PROVIDERS AND DISPENSERS

(a) Each professional licensing authority for health care providers shall develop evidence-based standards to guide health care providers in the appropriate prescription of Schedules II, III, and IV controlled substances for different medical conditions.

(b)(1) Each health care provider who prescribes any Schedule II, III, or IV controlled substances shall register with the VPMS.

(2) If the VPMS shows that a patient has filled a prescription for a controlled substance written by a health care provider who is not a registered user of VPMS, the commissioner of health shall notify such provider by mail of

the provider's registration requirement pursuant to subdivision (1) of this subsection.

(3) The commissioner of health shall develop additional procedures to ensure that all health care providers who prescribe controlled substances are registered in compliance with subdivision (1) of this subsection.

(c) Each dispenser who dispenses any Schedule II, III, or IV controlled substances shall register with the VPMS.

(d)(1) Each professional licensing authority for health care providers and dispensers authorized to prescribe or dispense Schedules II, III, and IV controlled substances shall adopt standards regarding the frequency and circumstances under which their respective licensees shall query the VPMS.

(2) Each professional licensing authority for dispensers shall adopt standards regarding the frequency and circumstances under which its licensees shall report to the VPMS, which shall be no less than once every seven days.

(3) A health care provider or dispenser who fails to comply with the standards adopted by the applicable licensing authority shall be subject to discipline by the licensing authority.

(4) No later than January 15, 2013, each professional licensing authority subject to this subsection shall submit its standards to the VPMS advisory committee established in section 4286 of this title.

Sec. 12. 18 V.S.A. § 4290 is added to read:

§ 4290. REPLACEMENT PRESCRIPTIONS AND MEDICATIONS

(a) As used in this section, “replacement prescription” means an unscheduled prescription request in the event that the document on which a patient’s prescription was written or the patient’s prescribed medication is reported to the prescriber as having been lost or stolen.

(b) When a patient or a patient’s parent or guardian requests a replacement prescription for a Schedule II, III, or IV controlled substance, the patient’s health care provider shall query the VPMS prior to writing the replacement prescription to determine whether the patient may be receiving more than a therapeutic dosage of the controlled substance.

(c) When a health care provider writes a replacement prescription pursuant to this section, the provider shall clearly indicate as much by writing the word “REPLACEMENT” on the face of the prescription.

(d) When a dispenser fills a replacement prescription, the dispenser shall report the required information to the VPMS and shall indicate that the prescription is a replacement by completing the VPMS field provided for such purpose. In addition, the dispenser shall report to the VPMS the name of the person picking up the replacement prescription, if not the patient.

(e) The VPMS shall create a mechanism by which individuals authorized to access the system pursuant to section 4284 of this title may search the database for information on all or a subset of all replacement prescriptions.

Sec. 13. UNIFIED PAIN MANAGEMENT SYSTEM ADVISORY COUNCIL

(a) There is hereby created a unified pain management system advisory council for the purpose of advising the commissioner of health on matters relating to the appropriate use of controlled substances in treating chronic pain and addiction and in preventing prescription drug abuse.

(b) The unified pain management system advisory council shall consist of the following members:

(1) the commissioner of health or designee, who shall serve as chair;

(2) the deputy commissioner of health for alcohol and drug abuse programs or designee;

(3) the commissioner of mental health or designee;

(4) the director of the Blueprint for Health or designee;

(5) the chair of the board of medical practice or designee, who shall be a clinician;

(6) a representative of the Vermont state dental society, who shall be a dentist;

(7) a representative of the Vermont board of pharmacy, who shall be a pharmacist;

(8) a faculty member from the academic detailing program at the University of Vermont's College of Medicine;

(9) a faculty member from the University of Vermont's College of Medicine with expertise in the treatment of addiction or chronic pain management;

(10) a representative of the Vermont Medical Society, who shall be a primary care clinician;

(11) a representative of the American Academy of Family Physicians, Vermont chapter, who shall be a primary care clinician;

(12) a representative of the Vermont Ethics Network;

(13) a representative of the Hospice and Palliative Care Council of Vermont;

(14) a representative of the office of the health care ombudsman;

(15) the medical director for the department of Vermont health access;

(16) a clinician who works in the emergency department of a hospital, to be selected by the Vermont Association of Hospitals and Health Systems in consultation with any nonmember hospitals;

(17) a member of the Vermont board of nursing subcommittee on APRN practice, who shall be an advanced practice registered nurse;

(18) a representative from the Vermont Assembly of Home Health and Hospice Agencies;

(19) a psychologist licensed pursuant to 26 V.S.A. chapter 55 who is a member of the American Academy of Pain Management and has experience in treating chronic pain, to be selected by the board of psychological examiners;

(20) a drug and alcohol abuse counselor licensed pursuant to 33 V.S.A. chapter 8, to be selected by the deputy commissioner of health for alcohol and drug abuse programs; and

(21) a consumer representative who is either a consumer in recovery from prescription drug abuse or a consumer receiving medical treatment for chronic noncancer-related pain.

(c) Advisory council members who are not employed by the state shall be entitled to per diem and expenses as provided by 32 V.S.A. § 1010.

(d) A majority of the members of the advisory council shall constitute a quorum. The advisory council shall act only by vote of a majority of its entire membership and only at meetings called by the chair or by any three of the members.

(e) To the extent funds are available, the advisory council shall have the following duties:

(1) to develop and recommend principles and components of a unified pain management system, including the appropriate use of controlled substances in treating noncancer-related chronic pain and addiction and in preventing prescription drug abuse; and

(2) to identify and recommend components of evidence-based training modules and minimum requirements for the continuing education of all licensed health care providers in the state who treat chronic pain or addiction or prescribe controlled substances in Schedule II, III, or IV consistent with a unified pain management system.

(f) The commissioner of health may designate subcommittees as appropriate to carry out the work of the advisory council.

(g) On or before January 15, 2013, the advisory council shall submit its recommendations to the senate committee on health and welfare, the house committee on human services, and the house committee on health care.

Sec. 14. UNUSED DRUG DISPOSAL PROGRAM

No later than January 15, 2013, the commissioners of health and of public safety shall establish a drug disposal program for unused over-the-counter and prescription drugs, which program shall be available to Vermont residents throughout the state at no charge to the consumer. The commissioners shall take steps to publicize the program and to make all Vermont residents aware of opportunities to avail themselves of it.

Sec. 15. ADVISORY COMMITTEE REPORT

No later than January 15, 2013, the VPMS advisory committee established in 18 V.S.A. § 4286 shall provide recommendations to the house committee on human services and the senate committee on health and welfare regarding

ways to maximize the effectiveness and appropriate use of the VPMS database, including adding new reporting capabilities, in order to improve patient outcomes and avoid prescription drug diversion.

Sec. 16. SPENDING AUTHORITY

Providing financial support for the unified pain management system advisory council established in Sec. 13 of this act, upgrading the VPMS software, and implementing enhancements to the VPMS shall all be acceptable uses of the monies in the evidence-based education and advertising fund established in 33 V.S.A. § 2004a. The commissioner of health shall seek excess receipts authority to make expenditures as needed from the evidence-based education and advertising fund for these purposes.

Sec. 17. EFFECTIVE DATES

(a) This section and Sec. 8 of this act (18 V.S.A. § 4286) shall take effect on passage and shall apply retroactively as of January 15, 2012.

(b) The remaining sections of this act shall take effect on October 1, 2012.