

1 H.674

2 Introduced by Representatives Canfield of Fair Haven, Helm of Castleton and

3 Till of Jericho

4 Referred to Committee on

5 Date:

6 Subject: Health; unused prescription drugs and medical supplies

7 Statement of purpose: This bill proposes to create a drug repository program
8 through which licensed facilities, wholesale drug distributors, and drug
9 manufacturers can donate unused, unopened prescription drugs and medical
10 supplies to pharmacies, hospitals, and clinics in order to dispense such drugs
11 and supplies, for only a handling fee, to persons who are income-eligible and
12 uninsured, or both.

13 An act relating to a prescription drug and medical supply repository
14 program

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

16 Sec. 1. 26 V.S.A. chapter 36, subchapter 8 is added to read:

17 Subchapter 8. Unused Prescription Drug and Medical Supply

18 Repository Program

19 § 2079a. DEFINITIONS

20 As used in this subchapter:

1 (1) “Drug manufacturer” has the same meaning as “manufacturer” in
2 section 2022 of this title.

3 (2) “Health care facility” has the same meaning as in section 9402 of
4 Title 18.

5 (3) “Hospital” has the same meaning as in section 9402 of Title 18.

6 (4) “Nonprofit clinic” means a charitable nonprofit corporation
7 organized and operated pursuant to Title 11B or any charitable organization
8 not organized and not operated for profit that provides health care services to
9 indigent and uninsured persons. “Nonprofit clinic” does not include a health
10 care facility, as defined in section 9402 of Title 18, or a hospital.

11 (5) “Prescription drug” has the same meaning as in section 2022 of this
12 title.

13 (6) “Wholesale drug distributor” has the same meaning as in section
14 2022 of this title.

15 § 2079b. CREATION; UNUSED PRESCRIPTION DRUG AND MEDICAL
16 SUPPLY PROGRAM

17 (a) The board of pharmacy shall establish a program to accept and dispense
18 donated prescription drugs and medical supplies to Vermont residents who
19 meet the eligibility standards established by rules adopted by the board
20 pursuant to section 2079d of this subchapter.

1 (b) The board of pharmacy shall allow only drugs or medical supplies in
2 their original sealed and tamper-evident unit dose packaging to be accepted
3 and dispensed, except for drugs packaged in single-unit doses when the outside
4 packaging is opened if the single-unit dose packaging is undisturbed. The
5 board of pharmacy shall allow donation of only those drugs bearing an
6 expiration date that is less than six months beyond the date the drug is donated
7 and shall allow drugs to be dispensed only when the expiration date is more
8 than one month from the date of dispensing. The board of pharmacy shall
9 prohibit accepting or dispensing a drug when there is reason to believe that it is
10 adulterated.

11 (c) Each health care facility and wholesale drug distributor, in accordance
12 with the rules adopted by the board of pharmacy under section 2079d of this
13 subchapter, shall do one of the following:

14 (1) Give to the participating pharmacy, hospital, or nonprofit clinic any
15 unsold or unused prescription drugs and medical supplies that the facility or
16 distributor cannot sell or otherwise use that meets the requirements of this
17 subchapter;

18 (2) For each unsold or unused prescription drug and medical supply that
19 a facility or distributor does not donate through the program, submit to the
20 board of pharmacy a statement as to why the distributor will not give the drug
21 to the program.

1 (d) A drug manufacturer or any health care facility as defined in section
2 9402 of Title 18 may donate prescription drugs or medical supplies to the drug
3 repository program. The drugs or medical supplies must be donated at a
4 pharmacy, hospital, or nonprofit clinic which meets criteria for participation in
5 the program established by rules adopted by the board of pharmacy under
6 section 2079d of this subchapter. Nothing in this or any other section of this
7 subchapter requires a pharmacy, hospital, or nonprofit clinic to participate in
8 the program.

9 (e) A participating pharmacy, hospital, or nonprofit clinic shall dispense
10 drugs and medical supplies accepted under this section to individuals who are
11 residents of this state and meet the eligibility standards established in rules
12 adopted by the board under section 2079d of this subchapter. A drug may be
13 dispensed only pursuant to a prescription issued by a licensed health
14 professional authorized by law to prescribe drugs. A pharmacy, hospital, or
15 nonprofit clinic that accepts drugs under the program shall comply with all
16 applicable federal and state laws concerning storage and distribution of drugs
17 and shall inspect all drugs prior to dispensing them to determine that they are
18 not adulterated.

19 (f) The pharmacy, hospital, or nonprofit clinic may charge individuals
20 receiving drugs or medical supplies under the program a handling fee
21 established in accordance with rules adopted by the board under section 2079d

1 of this subchapter. Drugs and medical supplies accepted by the repository
2 shall not be resold.

3 § 2079c. LIMITATION OF LIABILITY; IMMUNITY

4 (a) The following persons and entities shall not, in the absence of bad faith,
5 be subject to criminal prosecution, professional disciplinary action, or liability
6 in tort or other civil action for injury, death, or loss to person or property,
7 resulting from the drugs or medical supplies accepted or dispensed under the
8 program:

9 (1) Individuals authorized under chapter 23 of this title to practice
10 medicine and surgery;

11 (2) Individuals authorized under chapter 33 of this title to practice
12 osteopathic medicine and surgery;

13 (3) Individuals authorized under chapter 26 of this title to practice
14 podiatric medicine and surgery;

15 (4) Registered nurses and licensed practical nurses practicing pursuant
16 to chapter 28 of this title;

17 (5) Physician assistants practicing pursuant to chapter 31 of this title;

18 (6) Dentists and dental hygienists practicing pursuant to chapter 13 of
19 this title;

20 (7) Optometrists practicing pursuant to chapter 30 of this title;

21 (8) Pharmacists practicing pursuant to this chapter;

1 (9) The board of pharmacy;

2 (10) A drug manufacturer;

3 (11) A wholesale drug distributor;

4 (12) A health care facility; and

5 (13) Any other state governmental agency.

6 (b) A drug or medical supply manufacturer shall not, in the absence of bad
7 faith, be subject to criminal prosecution or liability in tort or other civil action
8 for injury, death, or loss to person or property for matters related to the
9 donation, acceptance, or dispensing of a drug or medical supply made by that
10 manufacturer that is donated by any person under the program, including
11 liability for failure to transfer or communicate product or consumer
12 information or the expiration date of the donated drug or medical supply.

13 § 2079d. RULES

14 The board of pharmacy, in consultation with the office of Vermont health
15 access, the department of health, the department of disabilities, aging, and
16 independent living, and the board of medical practice, shall adopt rules
17 necessary to implement the requirements of this subchapter. The rules shall
18 include:

19 (1) Standards and procedures for health care facilities, wholesale drug
20 distributors, and drug manufacturers to give drugs and medical supplies to the
21 repository program, including a procedure whereby a health care facility or

1 wholesale drug distributor may submit a statement as to why it will not give a
2 particular drug to the program.

3 (2) Eligibility criteria for pharmacies, hospitals, and nonprofit clinics to
4 receive and dispense drugs or medical supplies accepted under the program.

5 (3) Standards and procedures for accepting, safely storing, and
6 dispensing donated drugs and medical supplies.

7 (4) Standards and procedures for inspecting donated drugs and medical
8 supplies to determine that the original unit dose packaging is sealed and
9 tamper-evident, and that the drugs and medical supplies are unadulterated,
10 safe, and suitable for dispensing.

11 (5) Eligibility standards for uninsured Vermont residents to receive
12 drugs or medical supplies, defining eligibility to include individuals who:

13 (A) Have a family income below 400 percent of the federal poverty
14 level and are uninsured;

15 (B) Have a family income below 400 percent of the federal poverty
16 level and are insured but have deductibles or co-payments for prescription
17 drugs that are substantial and cannot be met by current sources or savings; or

18 (C) Receive Medicare, regardless of whether Medicaid is also
19 received.

1 (6) A formula to determine the amount of a handling fee that
2 pharmacies, hospitals, and nonprofit clinics may charge to recipients to cover
3 restocking and dispensing costs.

4 (7) Procedures for handling of drugs and medical supplies donated to the
5 repository which shall include:

6 (A) A list of drugs, by drug class or by individual drug, that the
7 repository will accept;

8 (B) A list of drugs, by drug class or by individual drug, that the
9 repository will not accept, including why the drug is ineligible for donation.

10 (C) A list of medical supplies that the repository will accept;

11 (D) A list of medical supplies that the repository will not accept,
12 including an explanation of why the medical supplies are ineligible for
13 donation.

14 (8) Any other standards and procedures necessary for the development
15 and implementation of the program.

16 § 2079e. FORMS

17 The board of pharmacy, in consultation with the office of Vermont health
18 access, the department of health, the department of disabilities, aging, and
19 independent living, and the board of medical practice, shall create forms
20 necessary to implement the requirements of this subchapter. The forms shall
21 include:

1 (1) A form that an individual receiving a drug or medical supply from
2 the repository must sign before receiving the drug or medical supply to
3 confirm that the individual understands the immunity provisions of the
4 program.

5 (2) A form each donor must sign stating that the donor is the owner of
6 the drugs or medical supplies and intends to donate them voluntarily to the
7 repository.

8 (3) A form, such as an identification card, which an individual who is
9 eligible to receive donated drugs or medical supplies may use to demonstrate
10 eligibility.