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Agency of Human Services

MEMORANDUM

To: Senator Mark MacDonald, Chair, Legislative Committee on Administrative Rules

From: Mark Larson, Commissioner, Department of Vermont Health Access

Cc: Doug Racine, Secretary, Agency of Human Services

Date: July 30, 2014

Re: Emergency Rule, Prescription Monitoring (14-E05)

The Agency of Human Services' Department of Vermont Health Access (DVHA) is providing this memorandum in order to explain how the emergency rule, Prescription Monitoring (14-E05), meets the statutory criteria for LCAR approval, and to clarify the legal authority for rulemaking for the emergency rule.

The DVHA maintains that the emergency rule meets the statutory requirements for LCAR approval pursuant to 3 V.S.A. § 842 as follows:

- The emergency rule is within the authority of the Agency as provided in 3 V.S.A. § 3053 and 3 V.S.A. §801(b)(11).
 - The emergency rule is not contrary to the intent of the Legislature as the rule implements Vermont Act 195 of 2013-2014 Legislative Session;
 - The proposed rule is not arbitrary because it implements a new administrative process as part of the Medicaid program, as directed by the Vermont Legislature. This process intends to provide safeguards to Medicaid beneficiaries prescribed buprenorphine and Medicaid providers prescribing buprenorphine, with reaching positive impacts for the general public as a result of controlled drug use and reduced drug diversion; and
 - The Agency adhered to the strategies of maximizing public input. Before filing the emergency rule with the Secretary of State, the DVHA organized a workgroup to design the administrative process. This workgroup included representatives from the Department of Health and providers from across the State. The DVHA also presented the emergency rule to the Medicaid and Exchange Advisory Board on June 9, 2014.
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