

1
2
3
4
5
6
7
8
9
10
11

12
13
14
15
16
17
18
19
20

H.698

Introduced by Representatives Copeland-Hanzas of Bradford, Pugh of South
Burlington, and McFaun of Barre Town

Referred to Committee on

Date:

Subject: Health; substance use disorder; non-opioid directive form

Statement of purpose of bill as introduced: This bill proposes to establish a
non-opioid directive form to allow an individual to indicate to health care
professionals that the individual does not wish to be offered, prescribed,
supplied, administered, or otherwise provided a controlled substance
containing an opioid.

An act relating to establishing a non-opioid directive form

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

Sec. 1. 18 V.S.A. § 4754 is added to read:

§ 4754. NON-OPIOID DIRECTIVE FORM

(a) As used in this section:

(1) “Capacity” shall have the same meaning as in section 9701 of this
title.

(2) “Commissioner” means the Commissioner of Health.

(3) “Department” means the Department of Health.

1 (4) “Health care professional” means a physician licensed pursuant to
2 26 V.S.A. chapter 23 or 33; a physician assistant licensed to prescribe and
3 dispense prescription drugs pursuant to 26 V.S.A. chapter 31; an advanced
4 practice registered nurse authorized to prescribe and dispense prescription
5 drugs pursuant to 26 V.S.A. chapter 28, subchapter 2; or a dentist licensed
6 pursuant to 26 V.S.A. chapter 12.

7 (b) The Department shall create and publish on its website a non-opioid
8 directive form for the purpose of enabling an individual to indicate voluntarily
9 to health care professionals that the individual does not wish to be offered,
10 prescribed, supplied, administered, or otherwise provided a controlled
11 substance containing an opioid.

12 (c)(1) An individual with capacity may execute and file a non-opioid
13 directive form with a health care professional or with a person authorized by
14 the Commissioner by rule to accept the form for filing by signing and dating
15 the form in the presence of the health care professional or other authorized
16 person.

17 (2) Each health care professional or other authorized person receiving a
18 non-opioid directive form for filing shall:

19 (A) date and affix his or her signature to the form in the presence of
20 the individual as evidence of acceptance;

21 (B) provide a signed copy of the form to the individual; and

1 (C) maintain a physical or electronic copy of the form on the practice
2 premises on which it was received.

3 (3) If an individual is unable to execute a non-opioid directive form
4 personally and has previously appointed an agent pursuant to chapter 231 of
5 this title, the agent may execute and file a form in accordance with
6 subdivisions (1) and (2) of this subsection.

7 (d) An individual with capacity may amend, suspend, or revoke a non-
8 opioid directive form or any specific instruction in a non-opioid form for any
9 reason and may do so by written or oral means as directed by the
10 Commissioner by rule.

11 (e) A written prescription that is presented at a pharmacy or a prescription
12 that is electronically transmitted to a pharmacy shall be presumed to be valid
13 for the purposes of this section and a pharmacist shall not be held in violation
14 of this section for dispensing a controlled substance in contravention to an
15 individual's non-opioid directive form, except upon evidence that the
16 pharmacist knowingly contravened the form.

17 (f)(1) A health care professional or employee of a health care professional
18 acting in good faith shall not be subject to criminal or civil liability or be
19 considered to have engaged in unprofessional conduct for failing to offer,
20 prescribe, supply, administer, or otherwise provide a controlled substance

1 containing an opioid in accordance with an individual's non-opioid directive
2 form.

3 (2) A person appointed as an agent under an advance directive pursuant
4 to chapter 231 of this title and executing a non-opioid form in accordance with
5 this section shall not be subject to criminal or civil liability for executing the
6 form in good faith.

7 (g) Any board of professional licensure may limit, condition, or suspend
8 the license of a health care professional who recklessly or negligently fails to
9 comply with an individual's non-opioid directive form.

10 Sec. 2. RULEMAKING

11 The Commissioner of Health shall adopt rules pursuant to 3 V.S.A. chapter
12 25 for the implementation and use of the non-opioid directive form, including:

13 (1) procedures to record non-opioid directive forms in an individual's
14 electronic health record and in the Vermont Prescription Monitoring System
15 established in 18 V.S.A. chapter 84A;

16 (2) procedures to ensure that any recording, sharing, or distribution of
17 data related to the non-opiate directive form complies with all State and federal
18 patient privacy laws; and

19 (3) appropriate exemptions for emergency medical personnel and use of
20 opioids as part of medication-assisted therapy.

1 Sec. 3. EFFECTIVE DATE

2 This act shall take effect on January 1, 2019.