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H.874

Introduced by Representatives Connor of Fairfield, Colburn of Burlington,
LaLonde of South Burlington, O’Sullivan of Burlington, and
Weed of Enosburgh

Referred to Committee on

Date:

Subject: Human services; corrections; inmate medical care; prescription drugs

Statement of purpose of bill as introduced: This bill proposes to increase
inmate access to prescription drugs prescribed prior to incarceration.

An act relating to inmate access to prescription drugs

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

~~Sec. 1. 28 V.S.A. § 801 is amended to read:~~

~~§ 801. MEDICAL CARE OF INMATES~~

~~* * *~~

~~(e) Except as otherwise provided in this subsection, an offender who is
admitted to a correctional facility while under the medical care of a licensed
physician, a licensed physician assistant, or a licensed advanced practice
registered nurse, or a licensed nurse practitioner and who is taking medication
at the time of admission pursuant to a valid prescription as verified by the~~

1 ~~inmate's pharmacy of record, primary care provider, other licensed care~~
2 provider, or as verified by the Vermont Prescription Monitoring System or
3 other prescription monitoring or information system shall be entitled to
4 continue that medication and to be provided that medication by the
5 Department pending an evaluation by a licensed physician, a licensed
6 physician assistant, ~~a licensed nurse practitioner~~, or a licensed advanced
7 practice registered nurse. However, the Department may defer provision of
8 medication in accordance with this subsection if, in the clinical judgment of a
9 licensed physician, ~~a physician assistant, a nurse practitioner, or an advanced~~
10 ~~practice registered nurse, it is not in the inmate's best interest~~ there is a
11 compelling clinical reason not to continue the medication at that time. In
12 determining whether a compelling clinical reason exists to discontinue
13 medication, the physician shall confer with the practitioner who prescribed the
14 medication and give deference to the prescriber's clinical judgment and the
15 preferences of the inmate. The licensed practitioner ~~physician~~ who makes the
16 clinical judgment shall enter the reason for the discontinuance into the
17 inmate's permanent medical record, specifically stating why continuation of
18 the medication would be harmful to the inmate. If the licensed physician's
19 clinical judgment is that a medication must be discontinued immediately on an
20 emergency basis to avoid harm to the inmate, but the prescribing practitioner is
21 ~~not immediately available to confer, the licensed physician shall discontinue~~

1 ~~the medication, document the reason in the inmate's personal medical record,~~
2 ~~and follow up with the prescriber in writing.~~ It is not the intent of the General
3 Assembly that this subsection shall create a new or additional private right of
4 action.

5 * * *

6 Sec. 2. EFFECTIVE DATE

7 ~~This act shall take effect on July 1, 2018.~~

~~Sec. 1. 28 V.S.A. § 801 is amended to read:~~

~~§ 801. MEDICAL CARE OF INMATES~~

~~* * *~~

~~(e)(1) Except as otherwise provided in this subsection, an offender who is admitted to a correctional facility while under the medical care of a licensed physician, a licensed physician assistant, or a licensed advanced practice registered nurse, or a licensed nurse practitioner and who is taking medication at the time of admission pursuant to a valid prescription as verified by the inmate's pharmacy of record, primary care provider, other licensed care provider, or as verified by the Vermont Prescription Monitoring System or other prescription monitoring or information system shall be entitled to continue that medication and to be provided that medication by the Department pending an evaluation by a licensed physician, a licensed physician assistant, a licensed nurse practitioner, or a licensed advanced~~

~~practice registered nurse~~

~~(2) However, Notwithstanding subdivision (1) of this subsection, the Department may defer provision of a validly prescribed medication in accordance with this subsection if, in the clinical judgment of a licensed physician, a physician assistant, a nurse practitioner, or an advanced practice registered nurse, it is not in the inmate's best interest interests to continue the medication at that time.~~

~~(3) The licensed practitioner who makes the clinical judgment to discontinue a medication shall enter cause the reason for the discontinuance to be entered into the inmate's permanent medical record, specifically stating the reason for the discontinuance. If the inmate provides a signed release of information, the Department shall follow up in writing with the practitioner who prescribed the medication to notify him or her of the decision. The inmate shall also be provided with a specific explanation of the decision, both orally and in writing.~~

~~(4) It is not the intent of the General Assembly that this subsection shall create a new or additional private right of action.~~

~~* * *~~

~~Sec. 2. DATA COLLECTION~~

~~(a) The Department of Corrections shall collect information on: how often a medication for which an inmate has a valid prescription is continued or~~

~~discontinued upon incarceration at each correctional facility, the name of the medication, and the reason for discontinuance.~~

~~(b) The Department shall collect this information for a period of at least six months and provide a written report of its findings based on the data collected, including a breakdown by correctional facility of record, to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on or before January 31, 2019. Prior to finalizing the report, the Department~~

Sec. 1. 28 V.S.A. § 801 is amended to read:

§ 801. MEDICAL CARE OF INMATES

** * **

(b)(1) Upon admission to a correctional facility for a minimum of 14 consecutive days, each inmate shall be given a physical assessment unless extenuating circumstances exist.

(2) Within 24 hours after admission to a correctional facility, each inmate shall be screened for substance use disorders as part of the initial and ongoing substance use screening and assessment process. This process includes screening and assessment for opioid use disorders.

** * **

(e)(1) Except as otherwise provided in this subsection, an offender inmate who is admitted to a correctional facility while under the medical care of a

licensed physician, a licensed physician assistant, or a licensed advanced practice registered nurse, ~~or a licensed nurse practitioner~~ and who is taking medication at the time of admission pursuant to a valid prescription as verified by the inmate's pharmacy of record, primary care provider, other licensed care provider, or as verified by the Vermont Prescription Monitoring System or other prescription monitoring or information system, including buprenorphine, methadone, or other medication prescribed in the course of medication-assisted treatment, shall be entitled to continue that medication and to be provided that medication by the Department pending an evaluation by a licensed physician, a licensed physician assistant, ~~a licensed nurse practitioner,~~ or a licensed advanced practice registered nurse.

(2) ~~However,~~ Notwithstanding subdivision (1) of this subsection, the Department may defer provision of a validly prescribed medication in accordance with this subsection if, in the clinical judgment of a licensed physician, a physician assistant, ~~a nurse practitioner,~~ or an advanced practice registered nurse, it is not ~~in the inmate's best interest~~ medically necessary to continue the medication at that time.

(3) The licensed practitioner who makes the clinical judgment to discontinue a medication shall ~~enter~~ cause the reason for the discontinuance to be entered into the inmate's ~~permanent~~ medical record, specifically stating the reason for the discontinuance. The inmate shall be provided, both orally and

in writing, with a specific explanation of the decision to discontinue the medication and with notice of the right to have his or her community-based prescriber notified of the decision. If the inmate provides signed authorization, the Department shall notify the community-based prescriber in writing of the decision to discontinue the medication.

(4) It is not the intent of the General Assembly that this subsection shall create a new or additional private right of action.

(5) As used in this subchapter:

(A) "Medically necessary" describes health care services that are appropriate in terms of type, amount, frequency, level, setting, and duration to the individual's diagnosis or condition, are informed by generally accepted medical or scientific evidence, and are consistent with generally accepted practice parameters. Such services shall be informed by the unique needs of each individual and each presenting situation, and shall include a determination that a service is needed to achieve proper growth and development or to prevent the onset or worsening of a health condition.

(B) "Medication-assisted treatment" shall have the same meaning as in 18 V.S.A. § 4750.

* * *

Sec. 1a. 18 V.S.A. § 4750 is added to read:

§ 4750. DEFINITION

As used in this chapter, "medication-assisted treatment" means the use of U.S. Federal Drug Administration-approved medications, in combination with counseling and behavioral therapies, to provide a whole patient approach to the treatment of substance use disorders.

Sec. 2. DATA COLLECTION

(a) The Department of Corrections shall collect information on: how often a medication for which an inmate has a valid prescription is continued or discontinued upon incarceration at each correctional facility, the name of the medication, and the reason for discontinuance.

(b) The Department shall collect this information for a period of at least six months and provide a written report of its findings based on the data collected, including a breakdown by correctional facility of record, to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on or before January 31, 2019. Prior to finalizing the report, the Department shall consult with the Prisoners' Rights Office and Disability Rights Vermont.

(c) Nothing in this section shall require the Department to reveal individually identifiable health information in violation of State or federal law.

Sec. 3. EFFECTIVE DATES

(a) This section and Sec. 2 shall take effect on passage.

(b) Sec. 1 shall take effect on July 1, 2018.