

No. 82. An act relating to substance misuse prevention.

(S.146)

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

* * * Legislative Intent * * *

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that:

(1) prevention efforts focus on social and environmental factors to ensure that all Vermonters have opportunities to be active, engaged, connected, and heard throughout their lifetimes;

(2) substance misuse prevention efforts are consolidated and coordinated across State government to improve the health of all Vermonters;

(3) a significant portion of any new revenue generated by taxation of substances at risk of misuse, including cannabis, tobacco, tobacco substitutes, alcohol, and opioids, be directed to fund substance misuse prevention initiatives throughout the State in accordance with the advice of the Substance Misuse Prevention Oversight and Advisory Council established in 18 V.S.A. § 4803; and

(4) funds designated for the Opioid Coordination Council be redirected to fund the Chief Prevention Officer pursuant to 3 V.S.A. § 2321 and the Manager of Substance Misuse Prevention pursuant to 18 V.S.A. § 4804.

* * * Chief Prevention Officer * * *

Sec. 2. 3 V.S.A. chapter 45, subchapter 6 is added to read:

Subchapter 6. Chief Prevention Officer

§ 2321. CHIEF PREVENTION OFFICER

(a) There is created the permanent position of Chief Prevention Officer within the Office of the Secretary in the Agency of Administration for the purpose of coordinating, across State government and in collaboration with community partners, policies, programs, and budgets to support and improve the well-being of all Vermonters through prevention efforts. The Chief Prevention Officer shall:

(1) identify and coordinate initiatives across State government and among community stakeholder groups that improve well-being;

(2) examine promising prevention practices in other jurisdictions that may be replicated in Vermont; and

(3) improve the well-being of all Vermonters by considering population prevention measures in relation to all policy determinations.

(b) The Chief Prevention Officer shall have a master's-level degree or bachelor's-level degree in a human services field, public health, or public administration and professional-level experience in prevention, substance use disorders, public health, or a closely related field.

* * * Substance Misuse Prevention * * *

Sec. 3. 18 V.S.A. chapter 94 is amended to read:

CHAPTER 94. ~~DIVISION OF ALCOHOL AND DRUG ABUSE~~
PROGRAMS SUBSTANCE USE DISORDERS

* * *

§ 4803. ~~ALCOHOL AND DRUG ABUSE COUNCIL; CREATION; TERMS;~~
PER-DIEM SUBSTANCE MISUSE PREVENTION OVERSIGHT
AND ADVISORY COUNCIL

(a) ~~The Alcohol and Drug Abuse Council is established within the Agency of Human Services to promote the dual purposes of reducing problems arising from alcohol and drug abuse and improving prevention, intervention, treatment, and recovery services by advising the Secretary on policy areas that can inform Agency programs.~~

(b) ~~The Council shall consist of 12 members:~~

(1) ~~the Secretary of Human Services or designee;~~

(2) ~~the Commissioner of Public Safety or designee;~~

(3) ~~the Commissioner of Mental Health or designee;~~

(4) ~~the Deputy Commissioner of Health for the Division of Alcohol and Drug Abuse Programs;~~

(5) ~~the Director of the Blueprint for Health or designee;~~

(6) ~~a representative of an approved provider or preferred provider,~~
appointed by the Governor;

~~(7) a licensed alcohol and drug abuse counselor, appointed by the Governor;~~

~~(8) a representative of hospitals, appointed by the Vermont Association of Hospitals and Health Systems;~~

~~(9) an educator involved in substance abuse prevention services, appointed by the Governor;~~

~~(10) a youth substance abuse prevention specialist, appointed by the Governor;~~

~~(11) a community prevention coalition member, appointed by the Governor; and~~

~~(12) a member of the peer community involved in recovery services, appointed by the Governor.~~

~~(c) The term of office of members appointed pursuant to subsection (b) of this section shall be three years.~~

~~(d) The Council membership shall annually elect a member to serve as chair.~~

~~(e) All members shall be voting members.~~

~~(f) At the expiration of the term of an appointed member or in the event of a vacancy during an unexpired term, the new member shall be appointed in the same manner as his or her predecessor. Members of the Council may be reappointed.~~

~~(g)(1) The Council may submit a written report to the House Committee on Human Services and to the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.~~

~~(2) The report shall include the following:~~

~~(A) measurable goals for the State's substance abuse system of care;~~

~~and~~

~~(B) three to five performance measures that demonstrate the system's results.~~

~~(3) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required to be made under this subsection.~~

~~(h) Each member of the Council not otherwise receiving compensation from the State of Vermont or any political subdivision thereof shall be entitled to receive per diem compensation as provided in 32 V.S.A. § 1010(b) for not more than six meetings annually. Each member shall be entitled to his or her actual and necessary expenses.~~

(a) Creation. There is created the Substance Misuse Prevention Oversight and Advisory Council within the Department of Health to improve the health outcomes of all Vermonters through a consolidated and holistic approach to substance misuse prevention that addresses all categories of substances. The Council shall provide advice to the Governor and General Assembly for improving prevention policies and programming throughout the State and to ensure that population prevention measures are at the forefront of all policy

determinations. The Advisory Council's prevention initiatives shall

encompass all substances at risk of misuse, including:

(1) alcohol;

(2) cannabis;

(3) controlled substances, such as opioids, cocaine, and

methamphetamines; and

(4) tobacco products and tobacco substitutes as defined in 7 V.S.A.

§ 1001 and substances containing nicotine or that are otherwise intended for

use with a tobacco substitute.

(b)(1) Membership. The agenda of the Council shall be determined by an executive committee composed of the following members:

(A) the Commissioner of Health or designee, who shall serve as chair;

(B) a community leader in the field of substance misuse prevention, appointed by the Governor, who shall serve as vice chair;

(C) the Secretary of Education or designee;

(D) the Commissioner of Public Safety or designee; and

(E) the Chief Prevention Officer established pursuant to 3 V.S.A.

§ 2321.

(2) The members of the executive committee jointly shall appoint members to the Council with demographic and regional diversity. Members of the Council shall collectively offer expertise and experience in the categories

listed below with the understanding that a single member may offer expertise and experience in multiple categories:

(A) at least two people with lived substance use disorder experience, including a person in recovery and a family member of a person in recovery;

(B) one or more youth less than 18 years of age;

(C) one or more young adults between 18 and 25 years of age;

(D) the Director of Trauma Prevention and Resilience Development established pursuant to 33 V.S.A. § 3403; and

(E) persons with expertise in the following disciplines:

(i) substance misuse prevention in a professional setting;

(ii) pediatric care specific to substance misuse prevention or substance use disorder;

(iii) academic research pertaining to substance misuse prevention or behavioral addiction treatment;

(iv) education in a public school setting specific to substance misuse prevention;

(v) law enforcement with expertise in drug enforcement, addressing impaired driving, and community policing;

(vi) community outreach or collaboration in the field of substance misuse prevention;

(vii) the criminal justice system;

(viii) treatment of substance use disorder;

(ix) recovery from substance use disorder in a community setting;

(x) municipalities;

(xi) community-based, nonprofit youth services;

(xii) substance use disorder or substance misuse prevention within the older Vermonter population; and

(xiii) comprehensive communications and media campaigns.

(c) Powers and duties. The Council shall strengthen the State's response to the substance use disorder crisis by advancing evidence-based and evidence-informed substance misuse prevention initiatives. The Council's duties shall include:

(1) reviewing and making recommendations on best practices to assist communities and schools to significantly reduce the demand for substances through prevention and education;

(2) reviewing substance misuse prevention program evaluations and making specific recommendations for modification based on the results, including recommendations to address gaps in both services and populations served;

(3) reviewing existing State laws, rules, policies, and programs and proposing changes to eliminate redundancy and to eliminate barriers experienced by communities and schools in coordinating preventative action with State government;

(4) reviewing existing community-based youth programming, including recreation, municipal programs, parent-child center programs, and afterschool and year-round programs, to determine a foundation of connection and support for all Vermont children and youth;

(5) reviewing community-based programs for older Vermonters for the purpose of identifying gaps in services, including geographic disparities, eliminating barriers, and coordinating prevention services;

(6) recommending strategies to integrate substance misuse prevention programming across the State, including between State agencies and in public-private partnerships;

(7) development of a statewide media campaign for substance misuse prevention; and

(8) holding a minimum of two public meetings to receive public input and advice for setting program priorities for substances at risk of misuse.

(d) Committees. The Council shall have the ability to create issue-specific committees for the purpose of carrying out its duties, such as a youth committee. Any committees created may draw on the expertise of any individual regardless of whether that individual is a member of the Council.

(e) Assistance. The Council shall have administrative, technical, and communications assistance from the Manager of Substance Misuse Prevention established pursuant to section 4804 of this title.

(f) Report. Annually on or before January 1, the Council shall submit a written report to the Governor, the House Committees on Appropriations and on Human Services, and the Senate Committees on Appropriations and on Health and Welfare with its findings and any recommendations for legislative action. The report shall also include the following:

(1) measurable goals for the effectiveness of prevention programming statewide;

(2) three to five performance measures for all substances at risk of misuse that demonstrate the system's results;

(3) the results of evaluations of State-funded programs; and

(4) an explanation of State-funded program budgets.

(g) Organization.

(1) Members of the Council shall serve two-year terms and may be reappointed. Any vacancy on the Council shall be filled in the same manner as the original appointment. The replacement member shall serve for the remainder of the unexpired term. Any individual interested in serving on the Council may submit a letter of interest or resume to the Manager of Substance Misuse Prevention.

(2) A majority of the membership shall constitute a quorum.

(h) Compensation and reimbursement. Members of the Council who are not employed by the State or whose participation is not supported through their employment or association shall be entitled to per diem compensation and

reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings per year, unless further authorized by the Commissioner of Health. Payments to members of the Council authorized under this subsection shall be made from monies appropriated to the Department of Health.

§ 4804. ~~ADMINISTRATIVE SUPPORT~~ MANAGER OF SUBSTANCE MISUSE PREVENTION

~~The Agency of Human Services shall provide the Council with such administrative support as is necessary for it to accomplish the purposes of this chapter~~ There is created the permanent position of the Manager of Substance Misuse Prevention within the Department of Health for the purpose of:

(1) coordinating the work of the Substance Misuse Prevention Oversight and Advisory Council established pursuant to section 4803 of this title; and

(2) coordinating regional planning.

§ 4805. ~~DUTIES~~

~~The Council shall:~~

~~(1) advise the Governor as to the nature and extent of alcohol and drug abuse problems and the programs necessary to understand, prevent, and alleviate those problems;~~

~~(2) make recommendations to the Governor and General Assembly for developing:~~

~~(A) a comprehensive and coordinated system for delivering effective programs, including any appropriate reassignment of responsibility for such programs; and~~

~~(B) a substance abuse system of care that integrates substance abuse services with health care reform initiatives, such as pay for performance methodologies;~~

~~(3) provide for coordination and communication among the regional alcohol and drug abuse councils, State agencies and departments, providers, consumers, consumer advocates, and interested citizens;~~

~~(4) jointly, with the State Board of Education, develop educational and preventive programs;~~

~~(5) assess substance abuse services and service delivery in the State, including the following:~~

~~(A) the effectiveness of existing substance abuse services in Vermont and opportunities for improved treatment; and~~

~~(B) strategies for enhancing the coordination and integration of substance abuse services across the system of care; and~~

~~(6) provide recommendations to the General Assembly regarding State policy and programs for individuals experiencing public inebriation.~~

[Repealed.]

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* * * Repealing the Tobacco Evaluation and Review Board * * *

Sec. 4. 18 V.S.A. chapter 225 is amended to read:

Chapter 225. Tobacco Prevention, Cessation, and Control

§ 9501. DEFINITIONS

As used in this chapter:

(1) ~~“Board” means the Vermont Tobacco Evaluation and Review Board established by this chapter. [Repealed.]~~

* * *

§ 9503. VERMONT TOBACCO PREVENTION AND TREATMENT

(a) Except as otherwise specifically provided, the tobacco prevention and treatment program shall be administered and coordinated statewide by the Department of Health ~~and the Vermont Tobacco Evaluation and Review Board~~, pursuant to the provisions of this chapter. The program shall be comprehensive and research-based, ~~and shall include the following components:~~

- ~~(1) community-based programs;~~
- ~~(2) school-based programs;~~
- ~~(3) tobacco cessation programs;~~
- ~~(4) countermarketing activities;~~
- ~~(5) enforcement activities;~~
- ~~(6) surveillance and evaluation activities;~~
- ~~(7) policy initiatives; and~~

~~(8) any other activities determined by the Commissioner or the Board to be necessary to implement the provisions of this section.~~

~~(b) By June 1, 2001, the Department and the Board shall jointly establish a plan that includes goals for each program component listed in subsection (a) of this section, for reducing adult and youth smoking rates by 50 percent in the following 10 years. By June 1 of each year, the The Department and the Board shall jointly establish goals for reducing adult and youth smoking rates in the following two years, including goals for each program component listed in subsection (a) of this section, including performance measures for each goal in conjunction with the Substance Misuse Prevention Oversight and Advisory Council established pursuant to section 4803 of this title. The services provided by a quitline approved by the Department of Health shall be offered and made available to any minor, upon his or her consent, who is a smoker or user of tobacco products as defined in 7 V.S.A. § 1001.~~

* * *

~~(f) The Board shall be represented on all tobacco program advisory committees, including the youth working group, Community Grants Advisory Board, and the Scientific Advisory Board. The Board's representative on any such advisory committee shall include at least one member other than the Commissioner of Health. [Repealed.]~~

~~§ 9504. CREATION OF THE VERMONT TOBACCO EVALUATION AND
REVIEW BOARD~~

~~(a) There is created and established, within the Office of the Secretary, a body to be known as the Vermont Tobacco Evaluation and Review Board, an independent State board created to work in partnership with the Agency of Human Services and the Department of Health in establishing the annual budget, program criteria and policy development, and review and evaluation of the tobacco prevention and treatment program.~~

~~(b) The Board shall consist of 14 members, including ex officio the Commissioner of Health and the Secretary of Education or their designees; the Commissioner of Liquor Control or designee; the Attorney General or designee; a member of the House of Representatives appointed by the Speaker of the House; a member of the Senate appointed by the Committee on Committees; a member representing a nonprofit organization qualifying under Section 501(c)(3) of the Internal Revenue Code and dedicated to anti-tobacco activities appointed by the Speaker of the House; a member representing the low-income community appointed by the Senate Committee on Committees; two persons under the age of 30, one appointed by the Speaker of the House and one appointed by the Committee on Committees; and four members appointed by the Governor with the advice and consent of the Senate, including: one K-12 educator involved in prevention education; one tobacco use researcher; one member representing the health care community; and one~~

~~tobacco industry countermarketing expert. The public members shall serve for three-year terms, beginning on July 1 of the year in which the appointment is made, except that the first members appointed by the Governor to the Board shall be appointed, two for a term of two years, one for a term of three years, and one for a term of four years. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.~~

~~(c) The Governor shall appoint a chair from among the Board's public members. The Chair shall serve for a term of two years. The Chair may be removed for good cause by a two-thirds, voting majority of the Board. The Board may elect such other officers as it may determine. The Board may appoint committees or subcommittees for the purpose of providing advice on community-based programs, countermarketing activities, and independent program evaluations. Meetings shall be held at the call of the Chair or at the request of three members; however, the Board shall meet no fewer than four times a year. A majority of the sitting members shall constitute a quorum, and action taken by the Board under the provisions of this chapter may be authorized by a majority of the members present and voting at any regular or special meeting. Actions taken by the Board to approve, authorize, award, grant, or otherwise expend money appropriated to the Board or the Department shall require authorization from a majority of members of the entire Board.~~

~~(d) Public members other than ex officio members shall be entitled to per diem compensation authorized under 32 V.S.A. § 1010 for each day spent in~~

~~the performance of their duties, and members shall be reimbursed from the Fund for reasonable expenses incurred in carrying out their duties under this chapter. Legislative members shall be entitled to per diem compensation and reimbursement for expenses in accordance with 2 V.S.A. § 406.~~

~~(e) The Board may employ staff, through the Agency of Human Services, to assist the Board in planning, administering, and executing its functions under this chapter, subject to the policies, control, and direction of its members and the powers and duties of the Board under this chapter. The Board may employ technical experts and contractors as necessary to effect the purposes of this chapter. The Board shall use the Office of the Attorney General for legal services. The Board shall receive additional staff assistance from the Department of Health, the Office of Legislative Council, and the Joint Fiscal Office.~~

~~(f) The Agency of Human Services shall provide administrative support to the Board for the purposes of this chapter.~~

~~(g) No member of the Board shall have any direct or knowing affiliation or contractual relationship with any tobacco company, its affiliates, its subsidiaries, or its parent company. Each Board member shall file a conflict of interest statement, stating that he or she has no such affiliation or contractual relationship. [Repealed.]~~

§ 9505. GENERAL POWERS AND DUTIES

The ~~Board~~ Department shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this section, and shall:

(1) ~~Establish jointly with the Department of Health~~ the selection criteria for community grants and review and recommend the grants to be funded.

(2) ~~Select, upon the advice of the Commissioner, a contractor responsible for countermarketing activities. The Department shall pay the fees and costs of any such contractor. The Board and Commissioner shall jointly approve any final countermarketing campaign.~~

(3) ~~Review and advise the Department selection criteria for grantees and contracts funded by the Program in conformity with the goals established by the Department and Board.~~

(4) ~~Establish jointly with the Department an application process, criteria, and components for an independent evaluation. The Board shall select an independent contractor to perform an independent evaluation, and oversee the independent contractor's evaluation of the tobacco prevention, treatment, and control program~~ Perform ongoing evaluations of tobacco cessation efforts and publish the evaluation measures on the Department's website.

(5)(4) ~~Review and make recommendations regarding the overall plan and any~~ Execute a memorandum of understanding developed jointly by the

~~Department of Health and~~ with the Agency of Education for school-based programs funded through the Tobacco Program Fund.

~~(6)~~(5) ~~Review and make recommendations regarding~~ Consult with the Department of Liquor and Lottery concerning enforcement activities administered by the ~~Department of Liquor Control~~ in accordance with the provisions of this chapter.

~~(7)~~ Review and advise any State agency on applications for funds contributed from any outside sources that are designated for purposes of reducing tobacco use.

~~(8)~~ In collaboration with the Agency and Department, organize a minimum of two public meetings, by September 15 of each year, to receive public input and advice for setting program priorities and establishing an annual program budget.

~~(9)~~ Conduct jointly with the Secretary a review of the Department's proposed annual budget for the program, including funds contributed from any outside sources that are designated for purposes of reducing tobacco use, and submit independent recommendations to the Governor, Joint Fiscal Committee, and House and Senate Committees on Appropriations by October 1 of each year.

~~(10)~~(6) Propose to the ~~Department~~ strategies for program coordination and collaboration with other State agencies, health care providers and

organizations, community and school groups, nonprofit organizations dedicated to anti-tobacco activities, and other nonprofit organizations.

~~(11) Adopt a conflict of interest policy within 30 days of the appointment of the full Board and include this policy in the annual report required under this chapter.~~

§ 9506. ALLOCATION SYSTEM

~~(a)~~ In determining the allocation of funds available for the purposes of this chapter, the Department ~~and the Board~~ shall consider all relevant factors, including:

- (1) the level of funding or other participation by private or public sources in the activity being considered for funding;
- (2) what resources will be required in the future to sustain the program;
- (3) geographic distribution of funds; and
- (4) the extent to which the goals of the project can be measured by reductions in adult or youth smoking rates.

~~(b) The Department's and Board's allocation system shall include a method, developed jointly, that evaluates the need for and impact and quality of the activities proposed by eligible applicants, including, if appropriate, measuring the results of the project through reductions in adult and youth smoking rates.~~

§ 9507. ANNUAL REPORT

~~(a) On or before January 15 of each year, the Board shall submit a report concerning its activities under this chapter to the Governor and the General Assembly. The report shall include, to the extent possible, the following:~~

~~(1) the results of the independent program evaluation, beginning with the report filed on January 15, 2003, and then each year thereafter;~~

~~(2) a full financial report of the activities of the Departments of Health and of Liquor Control, the Agency of Education, and the Board, including a special accounting of all activities from July 1 through December 31 of the year preceding the legislative session during which the report is submitted;~~

~~(3) a recommended budget for the program; and~~

~~(4) an explanation of the results of approved programs, measured through reductions in adult and youth smoking rates. [Repealed.]~~

(b) [Repealed.]

* * * Substance Misuse Prevention Inventory * * *

Sec. 5. INVENTORY; SUBSTANCE MISUSE PREVENTION SERVICES

(a) On or before January 1, 2021, the Manager of Substance Misuse Prevention established pursuant to 18 V.S.A. § 4804, in consultation with the Chief Prevention Officer established pursuant to 3 V.S.A. § 2321, shall develop and submit to the House Committee on Human Services and to the Senate Committee on Health and Welfare an inventory of substance misuse prevention programs in the State. The Manager shall include in the inventory:

(1) the estimated cost and funding source of each program;

(2) the geographic reach of each program;

(3) the effectiveness of each program; and

(4) any identified gaps in services.

(b) On or before January 1, 2020, the Manager shall submit an interim report to the House Committee on Human Services and to the Senate Committee on Health and Welfare regarding its progress and findings related to subsection (a) of this section.

* * * Vermont Prescription Drug Advisory Council * * *

Sec. 6. 18 V.S.A. § 4255 is amended to read:

§ 4255. ~~CONTROLLED SUBSTANCES AND PAIN MANAGEMENT~~

VERMONT PRESCRIPTION DRUG ADVISORY COUNCIL

(a) There is hereby created the ~~Controlled Substances and Pain Management~~ Vermont Prescription Drug Advisory Council for the purpose of advising the Commissioner of Health on matters related to the Vermont Prescription Monitoring System and to the appropriate use of controlled substances in treating acute and chronic pain and in preventing prescription drug abuse, misuse, and diversion.

(b)(1) The ~~Controlled Substances and Pain Management~~ Advisory Council shall consist of the following members:

* * *

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

§ 4284. PROTECTION AND DISCLOSURE OF INFORMATION

* * *

(g) Following consultation with the ~~Controlled Substances and Pain Management~~ Vermont Prescription Drug Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to use information from VPMS to determine if individual prescribers and dispensers are using VPMS appropriately.

(h) Following consultation with the ~~Controlled Substances and Pain Management~~ Vermont Prescription Drug Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to evaluate the prescription of regulated drugs by prescribers.

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Sec. 8. 18 V.S.A. § 4289 is amended to read:

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

* * *

(e) The Commissioner of Health shall, after consultation with the ~~Controlled Substances and Pain Management~~ Vermont Prescription Drug Advisory Council, adopt rules necessary to effect the purposes of this section. The Commissioner and the Council shall consider additional circumstances under which health care providers should be required to query the VPMS,

including whether health care providers should be required to query the VPMS prior to writing a prescription for any opioid Schedule II, III, or IV controlled substance or when a patient requests renewal of a prescription for an opioid Schedule II, III, or IV controlled substance written to treat acute pain, and the Commissioner may adopt rules accordingly.

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* * * Effective Date * * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

Date Governor signed bill: June 20, 2019