

H.162 (2019)

*Written testimony related to H.162 (removal of criminal penalties for misdemeanor possession of buprenorphine without a prescription) submitted February 27, 2019 by Tom Dalton, Executive Director, Vermonters for Criminal Justice Reform.*

Here in Vermont, hundreds of people have died in the prime of life simply because they did not have effective access to the medicine that could have saved them. Many leave behind children and families who will never get over their loss. These preventable deaths continue to occur all over Vermont.

Pragmatic policy changes to improve access to buprenorphine will save lives.

Buprenorphine is a medication shown to effectively treat opioid use disorder, reduce harm and save lives. As lived experience indicates and a growing body of research confirms, this is true of both prescribed and non-prescribed (illicit) buprenorphine.

Buprenorphine works with or without a prescription. Buprenorphine works with or without counseling and monitoring. Access to the medication itself is what works.

Buprenorphine is unlikely to cause overdose and instead reduces overdose risk. Use of prescribed or non-prescribed buprenorphine by people living with opioid use disorder reduces risk and is protective.

Vermont has probably done more than any other state to provide access to drug treatment medications. Vermont is nationally recognized for our “Hub and Spokes” medication-assisted treatment (MAT) model. But even under the model many point to as the best in the country, only a fraction of those who would benefit actually participate in MAT programs.

The Vermont Department of Health estimates that fewer than 8,000 of the estimated 20,000 to 30,000 people with opioid use disorder in Vermont are receiving treatment. The rest access the illicit opioid market. This means that if we want to reach 2/3 of people living with opioid use disorder, including those most at risk, public health efforts cannot continue to simply ignore the illicit opioid market.

Law enforcement does focus on illicit drug markets but has been unable to significantly limit the availability of heroin and fentanyl in Vermont. This means that children, youth and adults are exposed to high risk, illicit opioids like heroin and fentanyl throughout our state every day. The relative accessibility of high risk, illicit opioids like heroin and fentanyl as compared to low risk, prescribed or non-prescribed buprenorphine is a tragedy that perpetuates and fuels the opioid crisis.

Waiting lists still block access to prescribed buprenorphine for many. Others are excluded by cost, distance, onerous program requirements or stigma. People are often discharged for minor rule violations. Every day, people go to jail, become infected with HIV or HCV, experience termination of parental rights or die of a drug overdose simply

because they could not access buprenorphine --a legal-when-prescribed, FDA-approved drug.

VCJR supports implementation of a **community-level safer substance substitution policy**. This new approach seeks to maximize access to both prescribed and non-prescribed buprenorphine to reach as many people as possible with this life-saving medication, influence illicit drug markets toward safer opioids, and transition a critical mass of opioid users from heroin/fentanyl use to buprenorphine use sufficient to stem the opioid crisis.

Buprenorphine treatment is an opioid replacement therapy which substitutes a safer substance for a less safe substance at the individual patient level. The medical strategy is to substitute buprenorphine for more problematic opioids. Buprenorphine out competes and physically supplants other opioids that might be present in the brain. An effective buprenorphine dose means every opioid receptor site in a patient's brain is occupied with a buprenorphine molecule and unavailable for heroin or fentanyl. VCJR supports applying this strategy of substituting buprenorphine for more problematic opioids at the community level as a public health strategy. The goal is to implement policy changes that help buprenorphine out compete and physically supplant heroin and fentanyl at the community level. An effective buprenorphine policy means every opioid user can easily substitute buprenorphine for less safe opioids and is therefore less available for heroin or fentanyl use.

Bad drug policies have driven the opioid crisis and demonstrated that policy decisions can influence opioid users and markets. For example, prescription monitoring systems, drug penalties based on weight, reformulations of prescription opioids to prevent injecting and extreme anti-diversion efforts have helped convert prescription opioid users into heroin/illicit fentanyl users (far more dangerous substances). VCJR is advocating for policies that will influence opioid users to choose buprenorphine (prescribed or non-prescribed) over more risky options.

We know that people will make opioid use decisions in part based on the legal risks associated with their options. Passage of H.162 will encourage people without access to prescribed buprenorphine to choose non-prescribed buprenorphine, when available, over more risky options.

Those who choose **self-help MAT** by purchasing non-prescribed buprenorphine are not able to use health insurance to cover the cost of their medication and sometimes experience dangerous interruptions in access (their connection runs out of buprenorphine and offers them fentanyl instead). Even as we seek to influence illicit markets, we should be helping individuals who are engaged in self-help MAT to transition to **low-barrier MAT programs** (no-charge, walk-in, same day access to medication, no counseling requirement, no drug testing, minimal rules).

Passage of H.162 will contribute to the following VCJR goals:

Outcome 1: People using opioids in Vermont can easily access prescribed and non-prescribed buprenorphine and therefore have safer options available.

Outcome 2: Fewer people experience preventable harms such as non-fatal and fatal overdose, transmission of HIV and HCV, injection-related infections like endocarditis, loss of child custody and parental rights, homelessness and incarceration.

Outcome 3: The concept of a community-level safer substance substitution policy is understood and intentionally adopted with broad support in Vermont.

Outcome 4: Vermont intentionally maximize access to both prescribed and non-prescribed buprenorphine and moves away from policies that prioritize preventing diversion over ensuring access.

Outcome 5: Vermont looks for non-punitive, innovative ways to limit harm by influencing and competing with illicit drug markets.