

No. 22. An act relating to reducing overdoses.

(H.222)

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

* * * Needle and Syringe Disposal Expansion * * *

Sec. 1. 18 V.S.A. § 4224 is amended to read:

§ 4224. UNUSED PRESCRIPTION DRUG, NEEDLE, AND SYRINGE
DISPOSAL PROGRAM

(a) The Department of Health shall establish and maintain the statewide Unused Prescription Drug, Needle, and Syringe Disposal Program to provide for the safe disposal of Vermont residents' unused and unwanted prescription drugs, needles, and syringes. The Program may include establishing secure collection and disposal sites and providing medication envelopes for sending unused prescription drugs to an authorized collection facility for destruction.

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Sec. 2. REGIONAL STAKEHOLDER MEETINGS; PUBLIC NEEDLE AND
SYRINGE DISPOSAL PROGRAMS

(a) Between July 1 and December 31, 2023, the Department of Health and the Blueprint for Health shall facilitate a series of regional stakeholder meetings regarding public needle and syringe disposal programs. The meetings shall include representatives from municipalities, hospitals, individuals with lived experience of injection drug use, and substance use disorder service providers, with the goal of determining the appropriate

placement of public needle and syringe disposal programs based on local needs, best practices, and rural access.

(b) On or before January 15, 2024, the Department shall present information to the House Committee on Human Services and to the Senate Committee on Health and Welfare regarding the progress of the regional stakeholder meetings required pursuant to this section and the statewide establishment of public needle and syringe disposal programs.

Sec. 3. APPROPRIATION; COMMUNITY NEEDLE AND SYRINGE
DISPOSAL PROGRAMS

In fiscal year 2024, \$150,000.00 is authorized from the Evidence-Based Education and Advertising Fund in 33 V.S.A. 2004a to the Department of Health's Division of Substance Use Programs to provide grants and consultations for municipalities, hospitals, community health centers, and other publicly available community needle and syringe disposal programs that participated in a stakeholder meeting pursuant to Sec. 2 of this act.

Sec. 3a. [Deleted.]

Sec. 3b. PRESENTATION; NEEDLE AND SYRINGE SERVICES

On or before February 15, 2024, the Department of Health, in consultation with stakeholders, including needle and syringe service providers, individuals with lived experience of injection-use drugs, other community-based service providers, and representatives from regions of the State without a fixed site for syringe service programs, shall present to the House Committee on Human

Services and to the Senate Committee on Health and Welfare information

addressing:

(1) unmet needle and syringe service needs throughout the State;

(2) required resources to ensure equitable access to needle and syringe services throughout the State; and

(3) who is best positioned to provide needle and syringe services.

* * * Opioid Antagonists * * *

Sec. 4. 18 V.S.A. § 4240 is amended to read:

§ 4240. PREVENTION AND TREATMENT OF OPIOID-RELATED
OVERDOSES

(a) As used in this section:

(1) “Health care professional” means a physician licensed pursuant to 26 V.S.A. chapter 23 or 33, a physician assistant licensed to prescribe and dispense prescription drugs pursuant to 26 V.S.A. chapter 31, an advanced practice registered nurse authorized to prescribe and dispense prescription drugs pursuant to 26 V.S.A. chapter 28, or a pharmacist licensed pursuant to 26 V.S.A. chapter 36.

(2) “Opioid antagonist” means a drug that, when administered, negates or neutralizes in whole or part the pharmacological effects of an opioid in the body.

(3) “Victim” means the person who has overdosed on an opioid ~~drug~~ or who is believed to have overdosed on an ~~opiate drug~~ opioid.

(b) For the purpose of addressing prescription and nonprescription opioid overdoses in Vermont, the Department shall develop and implement a prevention, intervention, and response strategy, depending on available resources, that shall:

(1) provide educational materials on opioid overdose prevention to the public free of charge, ~~including to substance abuse treatment providers, health care providers, opioid users, and family members of opioid users;~~

(2) increase community-based prevention programs aimed at reducing risk factors that lead to opioid overdoses;

(3) increase timely access to treatment services for opioid users, including ~~medication-assisted treatment~~ medication for opioid use disorder;

(4)(A) educate substance ~~abuse~~ use treatment providers on methods to prevent opioid overdoses;

(B) provide education, information, and training on overdose prevention, intervention, and response, including the status of legal possession of substances and harm reduction supplies, to individuals living with ~~addiction~~ opioid use disorder and participating in ~~opioid treatment programs~~, needle and syringe exchange programs, recovery programs, residential ~~drug~~ substance use disorder treatment programs, or correctional services;

(5) ~~facilitate overdose prevention, drug treatment, and addiction recovery services by implementing and expanding~~ implement and expand hospital referral services for individuals treated for an opioid overdose; ~~and~~

(6) develop a statewide opioid antagonist ~~pilot~~ program that emphasizes access to opioid antagonists to and for the benefit of individuals with a ~~history~~ of opioid use disorder;

(7) distribute opioid antagonists to assist those at risk of experiencing an opioid-related overdose; and

(8) establish opioid antagonist dispensing kiosks in locations accessible to those at risk of experiencing an opioid-related overdose.

(c)(1) A health care professional acting in good faith and within ~~his or her~~ the professional's scope of practice may directly or by standing order prescribe, dispense, and distribute an opioid antagonist to the following persons, ~~provided the person has been educated about opioid-related overdose prevention and treatment in a manner approved by the Department:~~

(A) a person at risk of experiencing an opioid-related overdose; or

(B) a family member, friend, or other person in a position to assist a person at risk of experiencing an opioid-related overdose.

(2) A health care professional who prescribes, dispenses, or distributes an opioid antagonist in accordance with subdivision (1) of this subsection shall be immune from civil or criminal liability with regard to the subsequent use of the opioid antagonist, unless the health professional's actions with regard to prescribing, dispensing, or distributing the opioid antagonist constituted recklessness, gross negligence, or intentional misconduct. The immunity granted in this subdivision shall apply whether or not the opioid antagonist is

administered by or to a person other than the person for whom it was prescribed.

(d)(1) A person may administer an opioid antagonist to a victim if ~~he or she~~ the person believes, in good faith, that the victim is experiencing an opioid-related overdose.

~~(2) After a person has administered an opioid antagonist pursuant to subdivision (1) of this subsection (d), he or she shall immediately call for emergency medical services if medical assistance has not yet been sought or is not yet present.~~

~~(3)~~ A person shall be immune from civil or criminal liability for administering an opioid antagonist to a victim pursuant to subdivision (1) of this subsection unless the person's actions constituted recklessness, gross negligence, or intentional misconduct. The immunity granted in this subdivision shall apply whether or not the opioid antagonist is administered by or to a person other than the person for whom it was prescribed.

(e) A person acting on behalf of a community-based overdose prevention program or a licensed pharmacist shall be immune from civil or criminal liability for providing education on opioid-related overdose prevention or for purchasing, acquiring, distributing, or possessing an opioid antagonist unless the person's actions constituted recklessness, gross negligence, or intentional misconduct.

(f) Any health care professional who treats a victim and who has knowledge that the victim has been administered an opioid antagonist within the preceding 30 days shall refer the victim to professional substance ~~abuse~~ use disorder treatment services.

* * * Operation of Needle and Syringe Service Programs * * *

Sec. 5. 18 V.S.A. § 4475 is amended to read:

§ 4475. DEFINITIONS

(a) As used in this chapter:

(1) The term “drug paraphernalia” means all equipment, products, devices, and materials of any kind that are used, or promoted for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a regulated drug in violation of chapter 84 of this title. “Drug paraphernalia” does not include needles ~~and~~, syringes, or other harm reduction supplies distributed or possessed as part of an organized community-based needle exchange program.

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* * * Prescribing Medications to Treat Opioid Use Disorder * * *

Sec. 6. 8 V.S.A. § 4089i is amended to read:

§ 4089i. PRESCRIPTION DRUG COVERAGE

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(e)(1) A health insurance or other health benefit plan offered by a health insurer or by a pharmacy benefit manager on behalf of a health insurer that provides coverage for prescription drugs and uses step-therapy protocols shall not require failure on the same medication on more than one occasion for continuously enrolled members or subscribers.

(2) Nothing in this subsection shall be construed to prohibit the use of tiered co-payments for members or subscribers not subject to a step-therapy protocol.

(3) Notwithstanding subdivision (1) of this subsection, a health insurance or other health benefit plan offered by an insurer or by a pharmacy benefit manager on behalf of a health insurer that provides coverage for prescription drugs shall not utilize a step-therapy, “fail first,” or other protocol that requires documented trials of a medication, including a trial documented through a “MedWatch” (FDA Form 3500), before approving a prescription for the treatment of substance use disorder.

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Sec. 6a. 18 V.S.A. § 4750 is amended to read:

§ 4750. DEFINITIONS

As used in this chapter:

* * *

(2) ~~“Medication-assisted treatment~~ Medication for opioid use disorder”

means the use of U.S. Food and 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. 6b. 18 V.S.A. § 4752 is amended to read:

§ 4752. OPIOID ~~ADDICTION~~ USE DISORDER TREATMENT SYSTEM

(a) The Departments of Health and of Vermont Health Access shall establish by rule in accordance with 3 V.S.A. chapter 25 a regional system of opioid ~~addiction~~ use disorder treatment.

(b) The rules ~~shall include the following requirements:~~ may address requirements for pharmacological treatment, including initial assessments, ongoing follow-up, provider education, and diversion prevention.

~~(1) Patients shall receive appropriate, comprehensive assessment and therapy from a physician or advanced practice registered nurse and from a licensed clinical professional with clinical experience in addiction treatment, including a psychiatrist, master’s or doctorate level psychologist, mental health counselor, clinical social worker, or drug and alcohol abuse counselor.~~

~~(2) A medical assessment shall be conducted to determine whether pharmacological treatment, which may include methadone, buprenorphine, and other federally approved medications to treat opioid addiction, is medically appropriate.~~

~~(3) A routine medical assessment of the appropriateness for the patient of continued pharmacological treatment based on protocols designed to encourage cessation of pharmacological treatment as medically appropriate for the individual treatment needs of the patient.~~

~~(4)(c) Controlled substances for use in federally approved pharmacological treatments for treating opioid addiction use disorder shall be dispensed only by:~~

~~(A)(1) a treatment program authorized by the Department of Health;~~

or

~~(B)(2) a physician or advanced practice registered nurse health care provider who is not affiliated with an authorized treatment program but who meets federal requirements for use of controlled substances in the pharmacological treatment of opioid addiction use disorder.~~

~~(5) Comprehensive education and training requirements shall apply for health care providers, pharmacists, and the licensed clinical professionals listed in subdivision (1) of this subsection, including relevant aspects of therapy and pharmacological treatment.~~

~~(6) Patients shall abide by rules of conduct, violation of which may result in discharge from the treatment program, including:~~

~~(A) provisions requiring urinalysis at such times as the program may direct;~~

~~(B) restrictions on medication dispensing designed to prevent diversion of medications and to diminish the potential for patient relapse; and~~

~~(C) such other rules of conduct as a provider authorized to provide treatment under subdivision (4) of this subsection (b) may require.~~

(d) Controlled substances for use in treatment of opioid use disorder may be prescribed via telehealth in accordance with federal requirements.

(e) The Department of Vermont Health Access or the Department's pharmacy benefits manager shall not require a health care provider to document a patient's adverse reaction to a medication prior to prescribing an alternative medication for opioid use disorder to the patient.

Sec. 6c. 18 V.S.A. § 4753 is amended to read:

§ 4753. CARE COORDINATION

Prescribing physicians and collaborating health care and addictions professionals may coordinate care for patients receiving ~~medication-assisted treatment for substance~~ medication for opioid use disorder, which may include monitoring adherence to treatment, coordinating access to recovery supports, and providing counseling, contingency management, and case management services.

* * * Prior Authorization of Medication for Opioid Use Disorder for Medicaid

Beneficiaries * * *

Sec. 7. 33 V.S.A. § 19011 is added to read:

§ 19011. MEDICATION FOR OPIOID USE DISORDER

(a) The Agency of Human Services shall provide coverage to Medicaid beneficiaries for medically necessary medication for opioid use disorder when prescribed by a health care professional practicing within the scope of the professional's license and participating in the Medicaid program.

(b) Pending approval of the Drug Utilization Review Board, the Agency shall cover at least one medication in each therapeutic class for methadone, buprenorphine, and naltrexone as listed on Medicaid's preferred drug list without requiring prior authorization.

Sec. 8. PRIOR AUTHORIZATION; MEDICATION FOR OPIOID USE
DISORDER; COMMUNITY REENTRY

On or before November 1, 2023, the Joint Legislative Justice Oversight Committee shall provide recommendations to the House Committee on Human Services and to the Senate Committee on Health and Welfare regarding any legislative action needed to ensure continuity of treatment for individuals reentering the community after discharge from a correctional setting, including eliminating prior authorization for medication for opioid use disorder.

Sec. 8a. REPORT; PRIOR AUTHORIZATION; SUBSTANCE USE
DISORDER TREATMENT

The Department of Vermont Health Access shall research, in consultation with individuals representing diverse professional perspectives, the feasibility and costs of administering a gold card program for substance use disorder treatment in which the Agency of Human Services shall not require a

health care provider to obtain prior authorization for substance use disorder treatment if, in the most recent six-month evaluation period, the Agency has approved or would have approved not less than 90 percent of the prior authorization requests submitted by the health care provider for the medication. On or before December 1, 2023, the Department's research shall be submitted to the Drug Utilization Review Board and Clinical Utilization Review Board for review, consideration, and the provision recommendations. On or before April 1, 2024, the Drug Utilization Review Board and Clinical Utilization Review Board shall each submit their recommendations to the House Committee on Human Services and to the Senate Committee on Health and Welfare.

Sec. 8b. RULEMAKING; PRIOR AUTHORIZATION; BUPRENORPHINE

The Department of Vermont Health Access shall amend its rules pursuant to 3 V.S.A. chapter 25 to enable health care providers in office-based opioid-treatment programs to prescribe 24 milligrams or less of the preferred medication for buprenorphine without prior authorization in accordance with 33 V.S.A. § 19011.

* * * Recovery Residences * * *

Sec. 9. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

* * *

(G) A residential care home or group home to be operated under State licensing or registration, serving not more than eight persons who have a disability as defined in 9 V.S.A. § 4501, or a recovery residence serving not more than eight persons, shall be considered by right to constitute a permitted single-family residential use of property. This subdivision (G) does not require a municipality to allow a greater number of residential care homes or group homes on a lot than the number of single-family dwellings allowed on the lot. As used in this subdivision, “recovery residence” means a shared living residence supporting persons recovering from a substance use disorder that:

(i) Provides tenants with peer support and assistance accessing support services and community resources available to persons recovering from substance use disorders.

(ii) Is certified by an organization approved by the Department of Health and that is either a Vermont affiliate of the National Alliance for Recovery Residences or another approved organization or is pending such certification. If certification is pending beyond 45 days, the municipality shall retain its right to consider the residence pursuant to zoning bylaws adopted in compliance with 24 V.S.A. § 4411.

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* * * Remove Future Repeal of Buprenorphine Exemption * * *

Sec. 10. REPEAL

2021 Acts and Resolves No. 46, Sec. 3 (repeal of buprenorphine exemption) and 4(b) (effective date; repeal of buprenorphine exemption) are repealed.

* * * Drug Checking for Contamination Detection * * *

Sec. 11. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

As used in this chapter, ~~unless the context otherwise requires:~~

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(45) “Approved drug-checking service provider” means a provider who complies with operating guidelines developed by the Department of Health pursuant to section 4240a of this title.

(46) “Drug-checking” means the testing of a substance to determine its chemical composition or assist in determining whether the substance contains contaminants, toxic substances, or hazardous compounds.

Sec. 12. 18 V.S.A. § 4240a is added to read:

§ 4240a. OVERDOSE PREVENTION; DRUG-CHECKING FOR

CONTAMINANT DETECTION

(a) Notwithstanding any other provision of law, it shall not be a violation of this chapter for an approved drug-checking service provider to receive, possess, transport, or store samples of a substance that may contain a regulated drug solely for purposes of analyzing the substance to determine its chemical

composition and disseminate information regarding the analysis to the provider of the substance.

(b) On-site approved drug-checking service providers shall be permitted to:

(1) collect voluntarily provided residual samples of substances potentially containing regulated drugs, possess, transport, or store samples of a regulated drug solely for purposes of analyzing the substances to determine its chemical composition as a lifesaving intervention;

(2) use any available technologies to analyze the contents of samples to obtain timely, highly accurate information regarding the composition of drugs to prevent overdose and mitigate health risks;

(3) provide results of analysis obtained from drug-checking technology to the person requesting drug services;

(4) disseminate data containing only the results of analysis and containing no personally identifiable information to community members at risk of overdose; and

(5) if necessary, arrange for a sample of a drug or substance to be tested by an approved laboratory.

(c) In operating any drug-checking service, personally identifiable information may be collected from a person providing a controlled substance to an approved drug-checking service provider only as necessary to communicate drug-checking results to the person. Personally identifiable information collected solely for the purposes of communicating drug-checking

results shall not be retained or shared by an approved drug-checking service provider.

(d) An employee, contractor, volunteer, or other person acting in the good faith provision of drug-checking services and, acting in accordance with established protocols shall not:

(1) be subject to arrest, charge, or prosecution for a violation pursuant to this chapter, including for attempting to, aiding and abetting in, or conspiracy to commit a violation of this chapter;

(2) have their property subject to forfeiture, any civil or administrative penalty, or liability of any kind, including disciplinary action by a professional licensing board, credentialing restrictions, contractual or civil liability, or medical staff or other employment action; or

(3) be denied any right or privilege for actions, conduct, or omissions relating to the operation of a drug-checking service in compliance with this chapter and any rules adopted pursuant to this chapter.

(e) An individual possessing a regulated substance and who provides any portion of the substance to an approved drug-checking service provider pursuant to this section for purposes of obtaining drug-checking services shall not be subject to arrest, charge, or prosecution for possession of a regulated substance pursuant to this chapter or civil or administrative penalty or disciplinary action by a professional licensing board for a violation of this chapter based on the individual's use or attempted use of drug-checking

services in accordance with this section. The immunity provisions of this subsection shall apply only to the use and derivative use of evidence gained as a proximate result of an individual seeking drug-checking services and shall not preclude prosecution of the individual on the basis of evidence obtained from an independent source.

(f) Local governments shall not collect, maintain, use, or disclose any personal information relating to an individual from whom local government receives any drug or substance for checking or disposal.

(g) The result of a test carried out by an approved drug-checking service provider shall not be admissible as evidence in any criminal or civil proceeding.

(h)(1) The Department shall provide technical assistance to and develop operating guidelines for drug-checking service providers.

(2) The Department shall coordinate the collection and dissemination of deidentified data related to drug-checking services to inform prevention and public health initiatives.

* * * Opioid Abatement Special Fund * * *

Sec. 13. 18 V.S.A. § 4774 is amended to read:

§ 4774. OPIOID ABATEMENT SPECIAL FUND

(a)(1) There is created the Opioid Abatement Special Fund, a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5 and administered by the Department of Health. The Opioid Abatement Special

Fund shall consist of all abatement account fund monies disbursed to the Department from the national abatement account fund, the national opioid abatement trust, the supplemental opioid abatement fund, or any other settlement funds that must be utilized exclusively for opioid prevention, intervention, treatment, recovery, and harm reduction services.

(2) The Department shall ~~include~~ submit a spending plan to the General Assembly, informed by the recommendations of the Opioid Settlement Advisory Committee established pursuant to section 4772 of this subchapter, ~~as part of its annual budget submission,~~ annually on or before January 15 and once ~~funding is approved~~ appropriated by the General Assembly from the Opioid Abatement Special Fund, the Department shall request to have the funds formally released from the national abatement account fund, the national opioid abatement trust, the supplemental opioid abatement fund, or any other settlement funds that must be utilized exclusively for opioid prevention, intervention, treatment, recovery, and harm reduction services. The Department shall disburse monies from the Opioid Abatement Special Fund pursuant to 32 V.S.A. chapter 7, subchapter 3.

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Sec. 14. APPROPRIATION; OPIOID ABATEMENT SPECIAL FUND

In fiscal year 2023, the following monies shall be appropriated from the Opioid Abatement Special Fund pursuant to 18 V.S.A. § 4774:

(1) \$1,980,000.00 for the expansion of naloxone distribution efforts, including establishing harm reduction vending machines, home delivery and mail order options, and expanding the harm reduction pack and leave behind kit programs;

(2)(A) \$2,000,000.00 divided equally between four opioid treatment programs to cover costs associated with partnering with other health care providers to expand satellite locations for the dosing of medications, including costs associated with the satellite locations' physical facilities, staff time at the satellite locations, and staff time at opioid treatment programs to prepare medications and coordinate with satellite locations;

(B) the satellite locations established pursuant to this subdivision (2) shall be located in Addison County, eastern or southern Vermont, Chittenden County, and a facility operated by the Department of Corrections;

(3)(A) \$1,976,000.00 to fund 26 outreach or case management staff positions within the preferred provider network for the provision of services that increase motivation of and engagement with individuals with substance use disorder in settings such as police barracks, shelters, social service organizations, and elsewhere in the community;

(B) it the intent of the General Assembly that these positions shall be funded annually by the Opioid Abatement Special Fund unless and until the Special Fund does not have sufficient monies to fund this expenditure;

(4) \$400,000.00 divided equally among the State's four syringe service providers to provide overdose prevention services and response education and resources that build trust between individuals with substance use disorder and Vermont's system of care;

(5) \$840,000.00 to provide contingency management services to individuals with substance use disorder;

(6) \$100,000.00 to implement a wound care telehealth consultation pilot program for the purpose of utilizing wound care experts to provide telehealth drop-in appointments to address syringe use by individuals with opioid use disorder;

(7) \$200,000.00 to expand the distribution of fentanyl test strips and, if available, xylazine test strips; and

(8)(A) \$700,000.00 to the Department of Health's Division of Substance Use Programs to award one or more grants to an organization or organizations providing or preparing to implement drug-checking services with spectroscopy devices, including high-pressure mass spectrometer (HPMS) or Fourier-transform infrared spectroscopy device (FTIR), in a harm reduction setting;

(B) the grants awarded pursuant to this subdivision (8) shall be based on an applicant's ability to provide publicly available drug-checking services.

* * * Effective Dates * * *

Sec. 15. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 7 (medication for opioid use disorder) shall take effect on September 1, 2023 and Sec. 8b (rulemaking; prior authorization; buprenorphine) shall take effect on January 1, 2024.

Date Governor signed bill: May 25, 2023