

THE LEGISLATIVE BULLETIN

A PUBLICATION OF THE VERMONT MEDICAL SOCIETY

Week of February 1, 2010

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REPORT ON THE ADVISABILITY OF REQUIRING DISCLOSURE OF FREE DRUG SAMPLES ISSUED

The Vermont Attorney General (AG) recently released a report on the advisability of publicly disclosing information on free drug samples provided by drug companies to Vermont prescribers. In addition to the results from a public hearing held on Oct. 27, 2009, the report reviewed recent recommendations on the regulation of free samples from the Institute of Medicine (IOM) and several other organizations.

The report recommended that the distribution of free samples of drugs and medical devices be reported by drug companies to the AG on an annual basis, with the timing and definitions consistent with federal regulation to the greatest extent possible. In addition, the AG recommended that any public release of disclosures of the distribution of free samples should not include identification of individual recipients. The report did not include a recommendation on the question of whether free drug products or starter packs should be reported.

In April 2009, IOM published a comprehensive report examining conflicts of interest in medical research, education, and practice. Related to the provision of free samples, the report summarizes its conclusions as follows: "[T]he committee recognizes that access to affordable medications is a serious problem for many Americans, but it believes that reliance on drug samples is an unsatisfactory response. For patients with chronic illnesses who lack the ability to pay for medications, a sample should be a stopgap that is accompanied by referral of the patient to a public or pharmaceutical company assistance program that can provide continuity of treatment. If physicians decide to accept drug samples, they should be given to patients who lack financial access to medications in situations in which appropriate generic alternatives are not available and the medication can be continued at little or no cost to the patient for as long as the patient needs it. . . ."

A survey of 237 Vermont Medical Society members, provided at the hearing, reveals the following attitudes and beliefs among Vermont physicians:

In response to the statement: "My patients benefit when I am provided with free drug samples."

- 51 percent (120 of 236 respondents), agreed or strongly agreed
- 27 percent (65) disagreed or strongly disagreed
- 22 percent (51) were neutral.

In response to the statement: "I would no longer accept free drug samples if the Attorney General maintained a searchable database of the free drug samples provided to each physician."

- 38 percent (87 of 229 respondents) agreed or strongly agreed
- 37 percent (85) disagreed or strongly disagreed
- 25 percent (57) were neutral.

During the public hearing, VMS stated its opposition to the public disclosure by individual prescribers of free drug samples. It also recommended that the data already collected under the Federal Prescription Drug Marketing Act be examined.

To read the full text of the report, please go to:

<http://www.atg.state.vt.us/assets/files/Free%20Samples%20Report.pdf>

GENERAL PHYSICIAN REIMBURSEMENT REDUCTIONS NOT INCLUDED IN OVHA FY 2011 BUDGET

VMS was pleased that the Office of Vermont Health Access (OVHA) did not propose any general reductions in physician reimbursement in the FY 2011 budget. As members may remember, last year the administration proposed multiple reductions and VMS had been concerned that those reductions could be proposed again in view of the massive budget deficits projected for FY 2011. Instead, OVHA proposed a number of new Medicaid program reductions including:

- Limiting PT/OT/ST visits to 30 per year. This limit is projected to save \$135,500 and is based on similar limits in place in Massachusetts, New Hampshire, Wisconsin, and Washington.
- Requiring prior authorization for radiology services. This increased administrative burden for physicians is projected to save \$2 million. Prior authorization will not be required for inpatient or emergency room imaging, ultrasound or mammograms. According to OVHA, private insurers, Maine, Rhode Island, New Hampshire, Colorado, Louisiana, Minnesota, and Oklahoma require similar prior authorization.
- Reducing the number of urine drug screening tests Medicaid pays for to eight per month, based on SAMSHA recommendations. This will save \$110,000.
- Limiting emergency room visits to 12 per year. Rhode Island and New Hampshire have similar limits. This is estimated to save \$301,530.
- Increasing program integrity activity; coordination with Medicaid Fraud Unit, data-mining of claims which is projected to save \$1.17 million.
- Reducing FQHC Reimbursement Rate by 1.3 percent to save \$138,526
- Decreasing the annual expenditure cap for adult dental from \$495 per year to \$200 per year to save \$1.476 million.
- Increasing Catamount office visit co-pays from \$10 to \$25, which would result in a net decrease in physician reimbursement.
- Increasing revenue from the hospital provider tax based on increased utilization and net patient revenue, for a savings of \$4.33 million.

Department of Health Budget – FY 2011

Loan Repayment

The proposed Department of Health Budget reduces funding for the educational loan repayment program

substantially by essentially going back to 2006 levels of funding. Primary care loan repayment, available to family physicians, general internists, pediatricians, obstetrician gynecologists and psychiatrists and mid-levels was reduced from about \$700,000 in FY '08 and '09 to \$445,000 in FY '10, and is proposed to be further reduced to \$285,000 in FY '11.

Total funding for educational loan repayment was \$1.46 million in FY '08 and '09, \$870,000 in FY '10 and is proposed to be reduced to \$570,000 in FY '11. In addition to primary care practitioners, loan repayment is available to dentists, nurses, and nurse faculty.

AHEC Funding

The UVM Area Health Education Center (AHEC) program's funding is also slated for a 50-percent reduction in the governor's budget, decreasing from \$500,000 to \$250,000. AHEC administers the educational loan repayment, provides workforce pipeline educational opportunities and operates the academic detailing program.

Tobacco

The Governor has proposed cutting Vermont's Tobacco Control Program by \$1.5 million. This cut is slated to come from the health department's portion of the program which means a 47-percent cut in funding to their department that will likely result in the following if the cut isn't prevented:

- Media to promote cessation resources will be drastically undermined;
- Free Nicotine Replacement Therapy (NRT) will be significantly reduced;
- Local community coalitions across the state will be reduced in half; and,
- Hospital cessation services will have reduced or no funding

Last year the program was preserved by level funding it using the tobacco trust fund.

Please contact VMS with your budget-related thoughts and comments.

VBMP PALLIATIVE CARE REPORT

Act 25, passed last year directed the Vermont Board of Medical Practice (VBMP) to study the need for continuing education requirements relative to palliative care and pain management and to report back to the legislature by Jan. 15, 2010. The board consulted with the Vermont Medical Society, the Vermont Ethics Network, the Board of Nursing, conducted a thorough review of Continuing Medical Education (CME) literature and worked with a group of medical students and faculty who designed a survey of physicians regarding palliative care.

The Board identified potentially effective strategies that can improve delivery of palliative care, including the establishment of a palliative care hotline for physicians and other health care professionals. The hotline would be available 24/7 and would be staffed by specialists in palliative care who could offer assistance in treating symptoms and accessing available resources. FAHC has a palliative care hotline that is available to physicians providing end-of-life care any time of day or night. FAHC also provides palliative care consults via telemedicine, and a mentorship program for rural health providers.

The board's report also identified strategies to address the broader issue of assuring that physicians licensed in Vermont possess current knowledge in their area of practice. The Board's second recommendation was that the law be amended to provide the Board with legislative authority to require evidence of current professional competence in connection with license renewal. In this connection, the board recognized the medical specialty board certification process as evidence of professional competence in specific practice areas and is exploring how physicians who do not have current board certification could demonstrate their continuing competence.

The Board found that understanding of palliative care is rapidly evolving with respect to both the physician's role and the needs and role of the patient and family. As such its third recommendation in the report encouraged health care professionals to participate in the following Vermont Ethics Network conference to explore palliative care and pain management issues in Vermont:

State Summit on Palliative Care and Pain Management

Sponsored by the Vermont Ethics Network

Monday, March 22, 2010 from 9:00 am to 4:00 pm.

Gifford Hospital Conference Center in Randolph, Vermont.

Keynote speaker: Robert Macauley, MD, Director of Clinical Ethics and Pediatric Palliative Care at FAHC
CMEs and CEUs will be available.

Hospice and Palliative Care Board Certification Opportunity

In 2006, the American Board of Medical Specialties (ABMS) added a subspecialty certificate in Hospice and Palliative Medicine. Ten ABMS member boards are co-sponsoring the certification that is offered to physicians who are currently certified by one of the boards. They are anesthesiology, emergency medicine, family medicine, internal medicine, obstetrics and gynecology, pediatrics, physical medicine and rehabilitation, psychiatry and neurology, radiology, and surgery.

The subspecialty certification in Hospice and Palliative Medicine is renewable every ten years, pending successful completion of education, training and examination requirements.

Grandfathering is available through 2012

Physicians certified by one of the ten boards may qualify to sit for the hospice and palliative medicine certification examination during the grandfathering period on the basis of their experience, even if they have not completed an ACGME-accredited hospice and palliative medicine fellowship. Qualifying experience may include working as a hospice medical director and either personally caring for dying patients or consulting with other health care practitioners on about care for dying patients.

The examination will be offered twice during the grandfathering period, on Nov. 16, 2010 and again in late October or November of 2012. Physicians interested in sitting for the examination should apply through their board. Each of the ten boards sets a time window when it will make the application available and a closing date for submitting applications.

For more information about Board Certification in Hospice in and Palliative Medicine, links to the ten sponsoring boards and their application windows, and information about the grandfathering period, please see the website of the American Academy of Hospice and Palliative Medicine at <http://www.aahpm.org/certification/abms.html>.

BAN ON TEXTING WHILE DRIVING PROPOSED

The Senate Transportation Committee has sponsored a bill that proposes to prohibit texting while operating a moving motor vehicle on a highway.

If the bill becomes law, violators would be subject to a penalty of \$100.00 and two points on their license for a first conviction, and \$250.00 and five points on their license for a second or subsequent conviction within any two-year period.

The bill also directs the commissioner of motor vehicles to formulate a plan to educate operators as to the dangers of operating while texting and the penalties that may be imposed pursuant to this act.

This bill will be read for a second time by the Senate during the week of Feb. 1.

APRN RULES HEARING TO BE HELD FEB. 12

The Vermont Board of Nursing has scheduled a hearing on its proposed APRN rules. The rules would remove requirements that APRNs, including nurse practitioners, nurse midwives, nurse anesthetists and clinical nurse specialists, have a written collaboration agreement with a physician and practice under guidelines that are acceptable to both the nursing and medical professionals.

Board of Nursing Hearing - Advanced Practice Registered Nurse Rules

Friday, February 12, 2010 - 9:00 a.m.
M2D Conference Room - National Life Building
Montpelier, Vermont

For more information about the proposed rules and VMS's concerns about them, visit
<http://www.vtmd.org/APRN/APRN%20Index.html>.

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