§ 1998. Pharmacy best practices and cost control program established

(a) The director of the office of Vermont health access shall establish and maintain a pharmacy best practices and cost control program designed to reduce the cost of providing prescription drugs, while maintaining high quality in prescription drug therapies. The program shall include:

(1) Use of an evidence-based preferred list of covered prescription drugs that identifies preferred choices within therapeutic classes for particular diseases and conditions, including generic alternatives and overthe-counter drugs.

(2) Utilization review procedures, including a prior authorization review process.

(3) Any strategy designed to negotiate with pharmaceutical manufacturers to lower the cost of prescription drugs for program participants, including a supplemental rebate program.

(4) Alternative pricing mechanisms, including consideration of using maximum allowable cost pricing for generic and other prescription drugs.

(5) Alternative coverage terms, including consideration of providing coverage of over-the-counter drugs where cost-effective in comparison to prescription drugs, and authorizing coverage of dosages capable of permitting the consumer to split each pill if cost-effective and medically appropriate for the consumer.

(6) A simple, uniform prescription form, designed to implement the preferred drug list, and to enable prescribers and consumers to request an exception to the preferred drug list choice with a minimum of cost and time to prescribers, pharmacists and consumers.

(7) A joint pharmaceuticals purchasing consortium as provided for in subdivision (c)(1) of this section.

(8) Any other cost containment activity adopted, by rule, by the director that is designed to reduce the cost of providing prescription drugs while maintaining high quality in prescription drug therapies.

(b) The director shall implement the pharmacy best practices and cost control program for Medicaid and all other state public assistance program health benefit plans to the extent permitted by federal law.

(c)(1) The director may implement the pharmacy best practices and cost control program for any other health benefit plan within or outside this state that agrees to participate in the program. For entities in Vermont, the director shall directly or by contract implement the program through a joint pharmaceuticals purchasing consortium. The joint pharmaceuticals purchasing consortium shall be offered on a voluntary basis no later than January 1, 2008, with mandatory participation by state or publicly funded, administered, or subsidized purchasers to the extent practicable and consistent with the purposes of this chapter, by January 1, 2010. If necessary, the office of Vermont health access shall seek authorization from the Centers for Medicare and Medicaid to include purchases funded by Medicaid. “State or publicly funded purchasers” shall include the department of corrections, the division of mental health, Medicaid, the Vermont Health Access Program (VHAP), Dr. Dynasaur, Vermont-Rx, VPharm, Healthy Vermonters, workers' compensation, and any other state or publicly funded purchaser of prescription drugs.

(2) The director of the office of Vermont health access, and the secretary of administration shall take all steps necessary to enable Vermont's participation in joint prescription drug purchasing agreements with any other health benefit plan or organization within or outside this state that agrees to participate with Vermont in such joint purchasing agreements.

(3) The commissioner of human resources shall take all steps necessary to enable the state of Vermont to participate in joint prescription drug purchasing agreements with any other health benefit plan or organization within or outside this state that agrees to participate in such joint purchasing agreements, as may be agreed to through the bargaining process between the state of Vermont and the authorized representatives of the employees of the state of Vermont.

(4) The actions of the commissioners, the director, and the secretary shall include:

(A) active collaboration with the National Legislative Association on Prescription Drug Prices;

(B) active collaboration with the Pharmacy RFP Issuing States initiative organized by the West Virginia Public Employees Insurance Agency;

(C) the execution of any joint purchasing agreements or other contracts with any participating health benefit plan or organization within or outside the state which the director determines will lower the cost of prescription drugs for Vermonters while maintaining high quality in prescription drug therapies; and

(D) with regard to participation by the state employees health benefit plan, the execution of any joint purchasing agreements or other contracts with any health benefit plan or organization within or outside the state which the director determines will lower the cost of prescription drugs and provide overall quality of integrated health care services to the state employees health benefit plan and the beneficiaries of the plan, and which is negotiated through the bargaining process between the state of Vermont and the authorized representatives of the employees of the state of Vermont.

(5) The director and the commissioner of human resources may renegotiate and amend existing contracts to which the office of Vermont health access and the department of human resources are parties if such renegotiation and amendment will be of economic benefit to the health benefit plans subject to such contracts, and to the beneficiaries of such plans. Any renegotiated or substituted contract shall be designed to improve the overall quality of integrated health care services provided to beneficiaries of such plans.

(6) The director, the commissioners, and the secretary shall report quarterly to the health access oversight committee and the joint fiscal committee on their progress in securing Vermont's participation in such joint purchasing agreements.

(7) The director, the commissioner of human resources, the commissioner of banking, insurance, securities, and health care administration, and the secretary of human services shall establish a collaborative process with the Vermont medical society, pharmacists, health insurers, consumers, employer organizations and other health benefit plan sponsors, the National Legislative Association on Prescription Drug Prices, pharmaceutical manufacturer organizations, and other interested parties designed to consider and make recommendations to reduce the cost of prescription drugs for all Vermonters.

(d) A participating health benefit plan other than a state public assistance program may agree with the director to limit the plan's participation to one or more program components. The director shall supervise the implementation and operation of the pharmacy best practices and cost control program, including developing and maintaining the preferred drug list, to carry out the provisions of the subchapter. The director may include such insured or self-insured health benefit plans as agree to use the preferred drug list or otherwise participate in the provisions of this subchapter. The purpose of this subchapter is to reduce the cost of providing prescription drugs while maintaining high quality in prescription drug therapies.

(e) The director of the office of Vermont health access shall develop procedures for the coordination of state public assistance program health benefit plan benefits with pharmaceutical manufacturer patient assistance programs offering free or low cost prescription drugs, including the development of a proposed single application form for such programs. The director may contract with a nongovernmental organization to develop the single application form.

(f)(1) The drug utilization review board shall make recommendations to the director for the adoption of the preferred drug list. The board's recommendations shall be based upon evidence-based considerations of clinical efficacy, adverse side effects, safety, appropriate clinical trials, and cost-effectiveness. “Evidence-based” shall have the same meaning as in section 4622 of Title 18. The director shall provide the board with evidence-based information about clinical efficacy, adverse side effects, safety, appropriate clinical trials, and shall provide information
about cost-effectiveness of available drugs in the same therapeutic class.

(2) The board shall meet at least quarterly. The board shall comply with the requirements of subchapter 2 of chapter 5 of Title 1 (open meetings) and subchapter 3 of chapter 5 of Title 1 (open records), except that the board may go into executive session to discuss drug alternatives and receive information on the relative price, net of any rebates, of a drug under discussion and the drug price in comparison to the prices, net of any rebates, of alternative drugs available in the same class to determine cost-effectiveness, and in order to comply with subsection 2002(c) of this title to consider information relating to a pharmaceutical rebate or to supplemental rebate agreements, which is protected from disclosure by federal law or the terms and conditions required by the Centers for Medicare and Medicaid Services as a condition of rebate authorization under the Medicaid program.

(3) To the extent feasible, the board shall review all drug classes included in the preferred drug list at least every 12 months, and may recommend that the director make additions to or deletions from the preferred drug list.

(4) The program shall establish board procedures for the timely review of prescription drugs newly approved by the federal Food and Drug Administration, including procedures for the review of newly-approved prescription drugs in emergency circumstances.

(5) Members of the board shall receive per diem compensation and reimbursement of expenses in accordance with section 1010 of Title 32.

(6) The director shall encourage participation in the joint purchasing consortium by inviting representatives of the programs and entities specified in subdivision (c)(1) of this section to participate as observers or nonvoting members in the drug utilization review board, and by inviting the representatives to use the preferred drug list in connection with the plans' prescription drug coverage.
(g) The office shall seek assistance from entities conducting independent research into the effectiveness of prescription
drugs to provide technical and clinical support in the development and the administration of the preferred drug list and the evidence-based education program established in subchapter 2 of Title 18.

CREDIT(S)
2001, Adj. Sess., No. 127, § 1; 2003, Adj. Sess., No. 122, § 128f; 2003, Adj. Sess., No. 156, § 15; 2005, No. 71, § 308; 2005, Adj. Sess., No. 174, § 101; 2007, No. 80, §§ 1a, 2, eff. July 1, 2007; 2009, No. 59, § 9, eff. July 1, 2009; 2009, Sp. Sess., No. 1, § E.309.2, eff. July 1, 2009.