



Department of Health

Division of Alcohol and Drug Abuse Programs

VPMS Frequently Asked Questions by Providers

1. Question: What is the purpose of the Vermont Prescription Monitoring System (VPMS)?

Answer: A primary purpose of VPMS is to promote the public's health by providing health care providers and dispensers with a tool to help them assess and monitor the controlled substances being prescribed to their patients. The goal is to enhance treatment and prevent the abuse of controlled substances without interfering with the medical use of those substances.

2. Question: Do I have to register with the VPMS?

Answer: Yes. Every Vermont licensed health care provider who prescribes any Schedule II, III, and IV controlled substances shall register with the VPMS. You can register online at <http://healthvermont.gov/adap/VPMS.aspx>.

3. Question: Am I required to query the VPMS?

Answer: Yes. The law requires that, at a minimum, the VPMS be queried under the following circumstances:

- at least annually for patients receiving ongoing treatment with an opioid Schedule II, II, or IV controlled substance;
- when starting a patient on a Schedule II, II, or IV controlled substance for nonpalliative long-term pain therapy of 90 days or more;
- the first time prescribing an opioid Schedule II, II, or IV controlled substance to treat chronic pain;
- prior to writing a replacement prescription for a Schedule II, II, or IV controlled substance;
- Any other requirement adopted under rule by the Commissioner of Health

4. Question: Do I have to personally query the VPMS or may I have one of my staff members query the VPMS for me?

Answer: Yes. You may assign a delegate(s) to conduct queries. Each person to whom you would like to provide access must complete the "VPMS Designee Request

Registration Form” to register with the system. The form can be found here:
<http://healthvermont.gov/adap/VPMS.aspx>

5. Question: Can I run a VPMS report before seeing a new patient?

Answer: Yes. If you are registered with the VPMS you, or your registered delegate, can run a report on a new patient you will see at a future appointment.

6. Question: Can other providers in my practice use my password to query the database about their patients?

Answer: No. Passwords may only be used to whom the password was issued. Each time the database is queried, the provider is verifying that the query is for a bona fide current patient of that provider. A query by another provider would not meet this legal requirement.

7. Question: Does the VPMS require every Schedule II, III, and IV drug dispensed to be reported to the database?

Answer: No. The law does not require reporting for a drug administered directly to a patient; or a drug dispensed by a health care provider at a facility licensed by the health department as long as the quantity dispensed does not exceed an amount adequate to treat a patient for a maximum of 48 hours. This exception would include methadone dispensed at an opioid addiction treatment facility.

8. Question: How does the Vermont Prescription Monitoring System affect HIPAA?

Answer: The VPMS law is more restrictive in relation to sharing VPMS data than HIPAA. Health care providers must comply with those more restrictive provisions when sharing VPMS data. However, like HIPAA, VPMS permits health care providers to share data concerning a bona fide patient with other health care providers for the purpose of treating the patient. If you are a provider for a program covered by 42 CFR Part 2 you are subject to more restrictive confidentiality requirements. See questions 17-19.

9. Question: May I place a copy of the VPMS report in the patient’s record?

Answer: Yes. But the Department recommends that it be kept in a separate section from the rest of the medical record. The VPMS statute prohibits anyone who may legitimately receive information from the database from sharing that information with any other person or entity not eligible to receive that information or report, therefore the VPMS report in the patient’s record cannot be included when the record is copied or shared for non-treatment purposes.

10. Question: Can I scan the VPMS report into the patient's Electronic Health Record (EHR)?

Answer: Yes. The statute allows providers to enter the VPMS report into their EHR and share with other prescribers so long as the sharing between providers is for the purpose of treating a bona fide patient. Again, if you are a provider in a program covered by 42 CFR Part 2 you are subject to more restrictive confidentiality requirements. See questions 17-19.

As a caution - please remember that information received from VPMS may not be shared with any other person or entity not eligible to receive the information therefore the VPMS report in your EHR cannot be included when the record is copied/shared for non-treatment purposes, such as for a payer.

11. Question: How does the VPMS ensure that the data is kept confidential?

Answer: By providing many technical and procedural safeguards. Only registered users prescribed by the statute can query the secured web-based system. Records from the database may only be shared in compliance with HIPAA and the VPMS statute.

12. Question: Are there penalties for knowingly releasing VPMS data?

Answer: Yes. Any person who knowingly discloses data to a person not authorized by the VPMS statute to receive that data would be subject to imprisonment of up to one year and/or a fine up to \$1000.00 as well as any relevant penalties under federal law. In addition, providers and pharmacists would be subject to discipline from their respective licensing boards. The law does provide for civil and criminal immunity for health care providers and dispensers for any action made in good faith in accordance with the law.

13. Question: I ran a query on a patient of mine and found she is seeing a number of providers who are also providing her controlled substances? What should I do?

Answer: The VPMS system is designed to be used as a tool to improve treatment. The goal is for providers to be better able to coordinate treatment and identify the earliest signs that a patient may need an adjustment in their treatment plan, or consideration of an additional diagnosis such as addiction. If what you see in the database makes you concerned about your patient's use of medication:

1. Contact the other providers listed to verify the information, and discuss coordination of the best course of treatment for this patient; and/or
2. Discuss the finding with the patient, and determine if the patient wants, or needs, an alteration of the treatment plan or assistance in dealing with a new diagnosis such as drug abuse or addiction. For patients in need of addiction treatment a list of resources can be found on the Division of Alcohol & Drug Abuse Programs' website: <http://healthvermont.gov/adap/resources.aspx#help>

14. Question: Are there pain assessment tools available that can help me treat my patients' pain that the Vermont Department of Health would recommend?

Answer: Yes. Please see the following tools:

- Initial Pain Assessment Tool
- Brief Pain Inventory
- McGill Pain Questionnaire
- Visual Analog Scale
- Wong-Baker FACES Pain Rating Scale

This list of Pain and Function Assessment Tools can also be found in Responsible Opioid Prescribing by Scott M. Fishman, MD.

Another helpful resource which every provider prescribing controlled substances should be familiar with is the Vermont Board of Medical Practice's *Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain*, which includes detailed guidelines for evaluating and treating pain, and prescribing controlled substances.

http://healthvermont.gov/hc/med_board/documents/opioid_pain_treatment_policy.pdf

15. Question: May I share copies of the VPMS report or data with law enforcement?

Answer: No. The law and rules governing the monitoring system strictly limit access to its reports and data and do not permit providers to release the data to law enforcement.

16. Question: What can I do if I have a patient who I believe is engaging in criminal activity and the database supports my belief?

Answer: As stated above, VPMS data and reports may not be shared with law enforcement. There may be circumstances when VPMS confirms other information that suggests the patient is engaging in criminal activity. You may be permitted to report the non-VPMS information to law enforcement provided you have a state law and HIPAA exception. Whether or not a state law and HIPAA exception applies to a particular situation is very fact specific and you may want to discuss this with your own attorney, risk manager, or malpractice carrier before disclosing any patient information. If you do choose to notify law enforcement you may not release the VPMS report.

17. Question: What can I do if the information in the database suggests that my patient may be posing a threat of harm to him or herself or the public?

Answer: In general, the Department recommends you take the steps suggested above, i.e. coordinate care with other providers, and counsel the patient when the information you see in the database raises concerns. However, if all of the information you have regarding the patient leads you to believe that your patient presents an imminent threat to themselves or others and immediate action must be taken to avoid negative consequences

to an individual's or the public's health and safety you may need to contact local law enforcement (please see above question and answer). If you choose to contact law enforcement you may not release the VPMS data.

18. Question: Can Opioid Treatment Programs (OTPs) query the VPMS?

Answer: Yes. Substance Abuse and Mental Health Services Administration (SAMHSA) encourages staff in OTPs to query state Prescription Drug Monitoring Programs (PDMPs), like VPMS. Because a request for information from an OTP is not a disclosure under 42 CFR Part 2 patient consent is not required.

19. Question: Can OTPs and Drug Addiction Treatment Act (DATA)-waived physicians provide patient-identifying information to the VPMS under federal confidentiality rules?

Answer: Probably not. SAMHSA advises OTPs and DATA-waived physicians to not disclose patient-identifying information to PDMPs because of 42 CFR Part 2's prohibition on redisclosure. The concern is that under certain identified circumstances, VPMS may allow redisclosure of information from the database.

20. Question: Can OTPS and DATA-waived physicians disclose patient-identifying information to the VPMS with patient consent?

Answer: Probably not. Again because of the possibility of redisclosure SAMHSA expressed concern that 42 CFR Part 2 could be violated by the OTP and DATA-waived physician by disclosing information to a PDMP even with patient consent. SAMHSA said they may further consider this issue in future guidance.