

## Vermont Prescription Monitoring System Frequently Asked Questions by Providers

**Question: I have a very busy practice and it would be great to have my clinical staff prep my patient's chart by running a VPMS query on my patient. Is it possible for one of my staff members to use the VPMS?**

**Answer:** Yes, but first each staff member to whom you would like to provide access will need to complete the "VPMS Designee Request Registration Form" to register with the system. This will enable VPMS to track this query back to the particular staff member who ran the query. You can find this form here:  
<http://healthvermont.gov/adap/VPMS.aspx>

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

**Answer:** No. Each time the database is queried, the provider verifies that the query is for a bona fide current patient of that provider. Therefore, a query by another provider would not meet this verification since the query is not for a patient of the registered provider. This is also a requirement of the VPMS statute. Beyond this, if several providers shared a single number, VPMS would not be able to determine the total number of individual providers using the system, or the volume of queries by provider.

**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 treatment plan or consideration of an additional diagnosis such as addiction. One of the databases limitations is that it is a secondary source of information so it's possible that all of the information you see may not be accurate. Therefore, if what you see in the database makes you concerned about your patient's use of medication we suggest you:

1. Contact the other providers listed to verify the information, and discuss coordination of the best course of treatment for this patient.
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. Many clinicians have found Responsible Opioid Prescribing by SM Fishman MD to be a useful guide for addressing these issues. For patients in need of addiction treatment a list of resources can be found on the Division of Alcohol & Drug Abuse Programs' website: [http://www.healthvermont.gov/adap/treatment/treatment\\_county.aspx](http://www.healthvermont.gov/adap/treatment/treatment_county.aspx)

**Question: How does HIPAA affect the Vermont Prescription System?**

Answer: All healthcare providers are covered entities under HIPAA (Health Insurance Portability & Accountability Act) and may disclose protected health information to other health care providers in order to provide treatment. The VPMS statute does not prohibit communication between providers for treatment purposes. For more information about HIPAA go to the United States Department of Health and Human Services Office for Civil Rights at <http://www.hhs.gov/ocr/office/index.html>

**Question: May I place a copy of the VPMS report in the patient's record?**

Answer: We recommend that you do not place a copy of a VPMS report in the patient chart. The VPMS statute is more protective of patient privacy than HIPAA and prohibits providers from sharing the information outside of their use for providing medical or pharmaceutical treatment to a patient. You may document findings you make and treatment plan adjustments based upon the report in the patient record.

**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 or anyone else not involved in the treatment of the patient.

**Question: What can I do if, after querying the database, my suspicions of criminal activity are supported by the VPMS data?**

Answer: As stated above VPMS data may not be shared with law enforcement. However, if VPMS confirms other information you have that suggests the patient is engaging in criminal activity you may be able to report that other information to law enforcement provided you have a HIPAA and state law exception.

For example, HIPAA permits disclosure of protected health information to law enforcement if the provider has a good faith belief that the disclosure is necessary to prevent or lessen a serious and imminent threat of harm to the health or safety of an individual or the public and disclosure to law enforcement can reasonably be expected to lessen the threat. 45 C.F.R. § 164.512(j). HIPAA also permits disclosure if the provider believes the protected health information constitutes evidence of criminal conduct occurring on the premises. 45 C.F.R. § 164.512(f)(5).

However, 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 HIPAA only allows you to release the minimum amount of information necessary to avoid the potential harm and you may not release the VPMS data.

**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 we recommend you take the steps suggested above, i.e. coordinate care with other providers, 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 only release the minimum amount of information necessary to avoid the potential harm and you may not release the VPMS data.

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

Answer: The Vermont Prescription Monitoring System provides many technical and procedural safeguards to protect patient confidentiality and access to controlled substance prescription information. 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.

<http://www.leg.state.vt.us/statutes/fullchapter.cfm?Title=18&Chapter=084A>

**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. However, the law provides civil and criminal immunity for health care providers and dispensers for any action made in good faith in accordance with the law.

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

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

Another helpful resource is the Vermont Board of Medical Practice's *Policy for the Use of Controlled Substances for Treatment of Pain*, which includes detailed guidelines for evaluating and treating pain, and prescribing controlled substances. An appendix to the policy includes sample written agreements and flow sheets that may be used when treating patients' with controlled substances.

[http://healthvermont.gov/hc/med\\_board/documents/pain\\_policy.pdf](http://healthvermont.gov/hc/med_board/documents/pain_policy.pdf)