

Public Comment Responsiveness Summary
Rule Governing the Prescribing of Opioids for Pain

A public hearing was held on November 2, 2018 in Burlington, Vermont, regarding the proposed Rule Governing the Prescribing of Opioids for Pain. During both the public comment period as well as the hearing, the Vermont Department of Health (“Department”) received and reviewed written public comments.

The following is a summary of comments received from the public and the Department’s response to each comment. Comments of a similar or consistent nature have been consolidated and responded to accordingly.

- 1. Comment:** Some commenters expressed concern that the definition of “prescribe” under section 3.21 does not capture the intent as it was explained during the public hearing. Additionally, commenters wanted to know if the definition was re-written with the intent of restricting the term “prescribe” to the place/bed/site of the patient at the time of the prescription.

Response: The intent of the re-write of the definition of “prescribe” is to clarify that the rule does not apply to patients who are directly administered drugs by providers. The determination of whether this rule applies to specific situations depends on whether a prescription for medication is ordered by the provider, obtained by the provider (or staff) and administered by the provider directly to the patient (e.g. when a patient is administered a drug in an inpatient hospital).

- 2. Comment:** A commenter asked whether a patient in a skilled nursing facility is exempt from the requirements.

Response: At the request of the residential facilities, the term “skilled nursing facilities” was removed from the rule and replaced with the existing, defined terms: nursing home, residential care home, and assisted living facility. Patients in nursing homes are exempt from Section 6 of the rule regarding opioid prescribing for chronic pain, as the requirements for nursing homes are such that Section 6 would be entirely duplicative.

Additionally, Section 7 of the rule regarding naloxone prescribing is addressed in the new FAQ:

Does my patient have to fill the naloxone prescription? Am I responsible for that?

No. Like all prescriptions, patients can choose whether to fill that prescription.

Licensed nursing homes, residential care homes, assisted living residences, and therapeutic community residences may stock naloxone onsite under a lawful prescription or order. While providers must ensure that patients living in such facilities have valid prescriptions for naloxone, these patients may not need to fill those prescriptions to be sufficiently protected. Providers prescribing to patients living in such facilities should discuss the facility protocols with the patient and a facility manager or designated facility personnel.

- 3. Comment:** A comment was made that in the nursing home setting the required consideration under Section 4.0 has already taken place by either the primary care provider or the hospital from which the patient is being transferred.

Response: If a provider is taking on a patient through a transfer of care from another provider in or outside of their practice, all parts of the rule apply.

- 4. Comment:** A question was raised about how providers should proceed with Section 4.0 for patients with legal guardians, particularly when legal guardians may be hard to reach.

Response: In cases where the patient has a legal guardian, providers should proceed as they would with any other type of care for that patient.

- 5. Comment:** A commenter questions whether delegation of the admitting provider's required in person discussion with the patient can be made if the admitting provider is not available on site at the time of new prescription.

Response: The prescriber may decide to delegate that work to a nurse or other provider, however, the responsibility for complying with the steps in Section 4.0 is ultimately on the prescriber.

For patients in residential health care settings, can a nurse or other provider be the one to conduct the steps in Section 4.0 of this rule?

The prescriber has the ultimate responsibility that the rule is followed, and all steps are completed. A prescriber may decide to delegate work to a nurse or other provider.

- 6. Comment:** A commenter asked for clarification as to whether the proposed rule would have an impact on workers' compensation and group health insurance plans.

Response: No.

- 7. Comment:** A commenter noted that in Section 9.2.1 there is a typo and "patient" should be "parent".

Response: The word "patient" will be changed to "parent".

- 8. Comment:** A commenter asked whether in section 9.2.2 parents and guardians should be added to match sections 9.2.1 and 9.2.3.

Response: This is not necessary. The other two sections require specific action, Section 9.2.2 only concerns providing an information sheet.