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October 1, 2019

The Honorable Brian J. Moran
Secretary of Public Safety and Homeland Security
P.O. Box 1475
Richmond, VA 23218

The Honorable Daniel Carey, M.D.
Secretary of Health and Human Resources
P.O. Box 1475
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Mr. Daniel Timberlake, Director
Department of Planning and Budget
1111 East Broad Street, Room 5040
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The Honorable Mark D. Obenshain
Chairman, Virginia State Crime Commission
Patrick Henry Building
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The Honorable Thomas K. Norment, Jr.
Co-Chair, Senate Finance Committee
P.O. Box 6205
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The Honorable Emmett W. Hanger, Jr.
Co-Chair, Senate Finance Committee
P.O. Box 2
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The Honorable S. Chris Jones
Chair, House Appropriations Committee
P.O. Box 5059
Suffolk, Virginia 23435-0059

Re: Report Pursuant to Item 38, Paragraphs H (4) and (6), 2019 Appropriation Act

Dear Secretaries Moran and Carey, Director Timberlake, and Chairmen Obenshain, Norment, Hanger, and Jones:

Item 38, Paragraph H (4) of the 2019 Appropriation Act requires the Executive Secretary of the Supreme Court of Virginia to report the results of two substance abuse treatment pilot programs at the Norfolk Adult Drug Court and the Henrico County Adult Drug Court utilizing non-narcotic, nonaddictive, long-acting, injectable prescription drug treatment regimens, as well as recommendations for expansion of the pilot program to other drug courts.

In addition, Item 38, Paragraph H (6) requires the Executive Secretary of the Supreme Court of Virginia to include the results of the Bristol Adult Drug Court pilot, which utilizes the same injectable prescription drug treatment regimens, in this report.

Please find enclosed the report addressing these budget items. If you have any questions about the report, please do not hesitate to contact me.

With best wishes, I am

Very truly yours,

Karl R. Hade

KRH:jrp
Enclosure

VIRGINIA DRUG TREATMENT COURTS: SUBSTANCE USE TREATMENT PILOTS

October 1, 2019

Office of the Executive Secretary
Supreme Court of Virginia

PREFACE

The Virginia 2019-2020 State Budget (Items 38 H. #4 & #6), *see* Appendix A, directs the Office of the Executive Secretary (OES) of the Supreme Court of Virginia to report the results of the pilot programs, as well as recommendations for expansion of the pilot program to other drug courts, to the Secretaries of Public Safety and Homeland Security and Health and Human Resources, the Director of the Department of Planning and Budget, the Chairman of the Virginia State Crime Commission, and the Chairmen of the House Appropriations and Senate Finance Committees. This report includes the pilot programs of Henrico, Norfolk, and Bristol.

I. Background: Need/Problem/Desire Addressed by Initiative

Beginning in 2015, drug courts applying for federal funding pursuant to the Adult Drug Court Discretionary Grant Program of the U.S Department of Justice, Bureau of Justice Assistance (BJA) were required to attest in writing that they will not deny otherwise eligible candidates access to the program because of a candidate's use of an FDA-approved medication for the treatment of a substance use disorder and not require participants to discontinue such medications as a condition of completion of the program (U.S. Department of Justice, 2015). The grant language creates a difficult-to-rebut presumption that medication-assisted treatment (MAT) will be permitted if it is prescribed lawfully by a licensed medical practitioner who has personally examined the participant and determined that the medication is appropriate to treat the disorder. The MAT attestation applies only to drug treatment court dockets receiving BJA or Substance Abuse Mental Health Services Administration (SAMHSA) funding.

In November 2015, the Honorable Terry McAuliffe created the Governor's Task Force on Prescription Drug and Heroin Abuse to address the rising issue of prescription drug abuse as well as heroin use. The overarching goal of the Task Force was focused on improving public safety and public health. The Task Force noted improvements were needed in access to and availability of treatment services. As part of the work of the Task Force, the treatment workgroup offered the following recommendation: Explore ways to enhance MAT through Community Service Boards (CSBs), Drug Treatment Courts and jail-based treatment. Identified barriers to providing MAT included limited funding, lack of access to a qualified physician or lack of an opiate treatment program, and lack of staff knowledge of how medication may assist in recovery.

The Task Force further discussed several barriers to accessing MAT. These include "stigma within the recovery community, as well as among providers and within the judicial system; inadequate reimbursement; lack of capacity for treatment and poor distribution of capacity across the state; and quality of care issues."[1] The treatment workgroup offered additional recommendations related to the lack of access to treatment for drug addiction in Virginia noting it as a major barrier to overcoming prescription opioid and heroin abuse, misuse, and overuse.

[1] Governor's Task Force on Prescription Drugs & Heroin Abuse Interim Report 2015, p. 12. Retrieved at http://www.dhp.virginia.gov/taskforce/default.htm

In 2018, the General Assembly approved the expansion of Medicaid and the Department of Behavioral Health and Developmental Services (DBHDS or the Department) was tasked with transforming the behavioral health system. DBHDS designed System Transformation Excellence and Performance (STEP-VA), an innovative initiative for individuals with behavioral health disorders that features a uniform set of required services, consistent quality measures, and improved oversight in all Virginia communities. STEP-VA is based on a national best practice model that requires the development of a set of deliberately chosen services that make up a comprehensive, accessible system for those with serious behavioral health disorders. This stakeholder initiative helped define the services that were suggested as needed in Virginia. DBHDS subsequently received $5 million to implement MAT. MAT is included as an evidence-based practice under outpatient services. Access to MAT can prevent death from opiate overdose, which is an epidemic in Virginia and the nation.

The Virginia 2018-2020 State Budget Item 312 #EE directs DBHDS to increase access to MAT for individuals with substance use disorders who are addicted to opioids. Out of this appropriation, $5,000,000 was funded for the first year from the federal State Targeted Response to the Opioid Crisis Grant and $5,000,000 was funded for the second year from the general fund. In expending this amount, the Department is to ensure that preferred drug classes include non-narcotic, non-addictive, injectable prescription drug treatment regimens. The Department is required to ensure that a portion of the funding is used for non-narcotic, non-addictive, prescription drug treatment regimens for individuals who are: (i) on probation; (ii) in an institution, prison, or jail; or (iii) not able for clinical or other reasons to participate in buprenorphine or methadone-based drug treatment regimens.

II. Naltrexone

Naltrexone, with the brand name Vivitrol®, was approved by the Federal Drug Administration (FDA) in 2006 for alcohol dependence and in 2010 for the prevention of relapse of opioid dependence after detoxification. As a physician-prescribed clinician-administered injectable medication, it may be covered under a Medicaid pharmacy benefit or medical benefit plan unlike either the generic tablet form of Naltrexone or the various formulations of buprenorphine, which are almost always covered as outpatient pharmacy benefits. If listed under medical benefits as an injectable like certain cancer medications, the prescribing physician must

first use the medical benefit "buy and bill"[2] for the medication in order to be reimbursed by Medicaid or other health plans.

Unlike methadone or buprenorphine, Naltrexone is not a controlled substance. Naltrexone is a specialty pharmaceutical that must be administered by a health care clinician. Since it is injected by a clinician, there are limited concerns about patient misuse or diversion. Prescribers do not require any special training or certification other than learning how to appropriately inject the medication in their offices. As it is not a self-administered specialty pharmaceutical, it is typically covered as a medical benefit with implications for the patient in terms of co-payments for office-based injection.

The Vivitrol® prescribing information on file at Alkermes, Inc., provides that Vivitrol® is naltrexone for extended-release injectable suspension, the only non-addictive, once-monthly medication available used with counseling to treat opioid and alcohol dependence. [3] It also lists the following attributes and important safety information for Vivitrol®:

- Non-addictive
- Has no street value
- Opioid antagonist
- Requires detox
- Non-Narcotic
- Once-monthly injectable
- Used with counseling and Administered by healthcare professional

SAMHSA defines Naltrexone as "a medication approved by the FDA to treat opioid use disorders and alcohol use disorders. The injectable extended-release form of the drug (Vivitrol®) is administered at 380mg intramuscular once a month. Naltrexone can be prescribed by any health care provider who is licensed to prescribe medications. Administering naltrexone prior to detoxification precipitates a severe and potentially medically hazardous withdrawal" (SAMHSA, 2012). For participants who are unable to achieve an initial period of opiate sobriety, naltrexone might not be a feasible option. Another concern is that naltrexone reduces physiological

[2] Patients with government insurance are not eligible for the Copay Assistance Program, including, but not limited to, Medicare, Medicaid, Medigap, VA, DoD, TRICARE, CHAMPVA, or any other federally or state-funded government assisted program.
[3] Vivitrol [prescribing information]. Waltham, MA: Alkermes, Inc; 2015.

tolerance to opiates; therefore, participants may be at risk for overdose and death if they stop taking naltrexone and resume using illicit opiates precipitously." (SAMHSA, 2012).

SAMHSA continues to warn that "if a person relapses and returns to using opioids, Naltrexone prevents the feeling of getting high. Individuals using Naltrexone should not use any other opioids or illicit drugs; drink alcohol; or take sedatives, tranquilizers, or other drugs. Patients on Naltrexone may have reduced tolerance to opioids and may be unaware of their potential sensitivity to the same, or lower, doses of opioids that they used to take. If patients who are treated with Naltrexone relapse after a period of abstinence, it is possible that the dosage of opioid that was previously used may have life-threatening consequences, including respiratory arrest and circulatory collapse." (SAMHSA, 2011)

While there are no clear recommended guidelines for the duration of Naltrexone therapy, 6 to 12 months is a likely minimum in most cases. Naltrexone can be stopped abruptly without withdrawal symptoms, but before discontinuing this medication, a careful clinical evaluation of the risk for relapse should be conducted (Kleber, 2007).

III. Status of Implementation

Information entered into Virginia's Drug Court/Specialty Docket Database administered by OES generates the following information related to each of the local drug treatment court dockets selected as the Vivitrol pilot sites regarding their participant's reported drug of choice. (Table 1).

Table 1: Primary Drug of Choice
As reported by drug court participants at time of program entry

	FY2016	FY2017	FY2018	FY2019
Bristol Adult Drug Court	N/A	**13% Opiates** 31% Marijuana 25% Methamphetamine	**61% Opiates** 18.2% Methamphetamine	**20% Opiates** 26.1% Methamphetamine
Henrico Adult Drug Court	**67% Opiates**	**67% Opiates**	**71% Opiates**	**67% Opiates**
Norfolk Adult Drug Court	**53% Opiates**	**53% Opiates**	40% Cocaine **35% Opiates**	**74% Opiates**

The Vivitrol® pilot funds were administered by OES to the three drug treatment court dockets: Bristol, Norfolk, and Henrico Adult Treatment Courts, using a grant process. Each drug court completed a grant application process that included the following:

- A detailed description of the program
- A copy of the policy & procedures manual for the pilot
- Commitment to compliance with the Medication Guide provided by the Vivitrol® manufacturer

The funds expended by each pilot per fiscal year appears below in Table 2.

Table 2: Vivitrol Funds Expended

Locality	FY2017	FY2018	FY2019
	Funds Spent	**Funds Spent**	**Funds Spent**
Bristol Adult Drug Court		**$0** of $50,000	**$0** of $50,000
Henrico Adult Drug Court	$0 of $50,000	**$19,462** of $50,000	**$22,609** of $50,000
Norfolk Adult Drug Court	**$28,102** of $50,000	**$45,498** of $50,000	**$40,145** of $50,000

A. Bristol Adult Drug Treatment Court

The Bristol Adult Drug Treatment Court docket and Highlands Community Services Board collaboratively developed policy and procedures, negotiated with the pharmaceutical vendor and created a strategy for program compliance. As of this report, no funds have been expended by Bristol Adult Drug Treatment Court for Vivitrol®. As no participants enrolled in the pilot, outcome and success measures are not available. This program has opted not to apply for FY2020 funding.

B. Henrico Adult Drug Treatment Court

The Henrico Adult Drug Treatment Court docket did not expend any of their FY2017 allotted funds. The first participant in the Vivitrol pilot began in late June 2017 and related expenses were applied to FY2018 grant funds. This program's target population is active participants in the Henrico Drug Court that have demonstrated an inability to abstain from opiate and/or alcohol use. This target population would have received interventions for their continued non-compliance; extra treatment sessions, essays, additional AA/NA meetings, and possible

short jail sentences. After those interventions, if a participant continues to test positive for opiates and/or alcohol, the participant is referred to the Henrico County Mental Health for medical evaluation. The program changed their access to Vivitrol® from the jail to the Henrico County Mental Health and Substance Abuse Services. The Henrico County Mental Health medical staff provides the initial assessment and all subsequent injections if the participant is eligible for Vivitrol®. Each participant is expected to remain in the Vivitrol pilot for six months. If applicable, the participant would be allowed to graduate from the Drug Treatment Court while still on Vivitrol®. As of July 1, 2019, Henrico spent $19,462 to serve four (4) participants on Vivitrol®. There are no outcome or success measures because no participants enrolled in the pilot have graduated yet.

C. Norfolk Adult Drug Treatment Court

The Norfolk Adult Drug Treatment Court docket uses the funds to enhance their CSB's Opioid Treatment Program (OTP) with Vivitrol®. The OTP program was only able to offer Methadone prior to these funds. OTP staff include professionals with medical, clinical and administrative expertise. Patients receive individually prescribed medication from a licensed medical practitioner and routinely meet with a primary counselor and attend clinic groups. Drug screens are used as a clinical tool to modify treatment approaches and interventions. Patients and their families receive education about substance addiction. Norfolk's program uses 100% of their funds in the 'supplies and other' category for the medication. The program estimates the cost of Vivitrol® at $1,000 per injection/dose. As of July 1, 2018, Norfolk spent $45,498 to serve seventeen (17) participants on Vivitrol®. There are no outcome or success measures because no participants enrolled in the pilot have graduated yet, and data results are too small to draw conclusions.

D. MAT in Drug Treatment Courts other than pilot sites

While 21 participants were reported to receive Vivitrol® over the past three years in the pilot sites, drug courts throughout the Commonwealth have reported an increase in the number of participants who receive MAT. Through a review of data from Virginia's Drug Treatment Court Database, 33 additional cases are reported as using Vivitrol® in other drug courts during the same time period. A summary of MAT treatment cases other than the pilot sites appear in Table 3. As of FY2019, over six percent (6.6%) of the statewide adult drug court population received MAT of some kind.

Table 3: Adult Drug Court Participants Treated with MAT			
MAT *(treatment drug used other than pilot sites)*	**FY2017**	**FY2018**	**FY2019**
Buprenorphine	3	7	13
Methadone	2	3	7
Naltrexone	0	1	3
Suboxone	5	17	43
Subutex	0	1	0
Vivitrol	0	9	28
Total MAT cases	**10**	**38**	**94**
Drug Court Graduates treated with MAT	8	4	15

IV. Recommendation

***Recommendation 1*: Provide funds for MAT options to the treatment providers serving drug treatment court dockets.**

OES continues to support the recommendation to explore ways to enhance medication-assisted treatment (MAT) through CSBs, Drug Treatment Courts, and jail-based treatment as recommended by the treatment workgroup of the Governor's Task Force on Prescription Drug and Heroin Abuse. Through Medicaid expansion, the DBHDS received $5 million to increase access to MAT. Funds for MAT options should be made available to the treatment providers serving drug treatment court dockets.

***Recommendation 2*: Develop collaborative working relationships between physicians and criminal justice professionals to raise the bar for both professions and optimize outcomes for drug addicted persons, the judicial system, and the public at large.**

It is the role of a competent, properly licensed physician to determine, based on the best available information, what regimen is most likely to be successful for a given patient. It is also the responsibility of a physician to explain this decision-making process to nonmedical persons, including the patient, the patient's loved ones, and third-party payers. Duly trained treatment

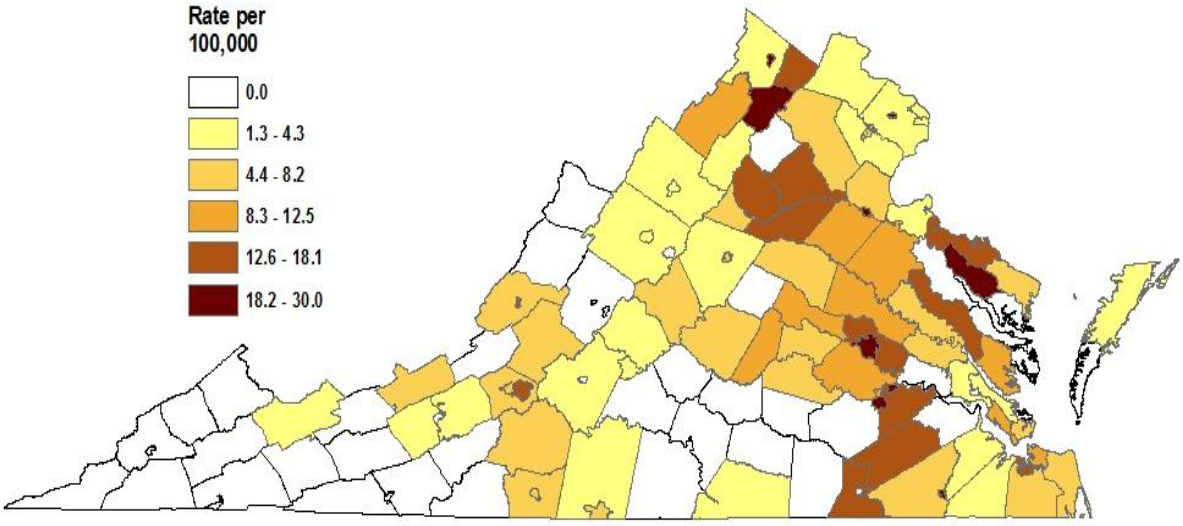
professionals provide the counseling and other treatment services correlating with the medical treatment. Failing to consider scientific evidence when making decisions about MAT falls short of best practice standards (NADCP, 2013, 2015) and may under some circumstances amount to an abuse of judicial discretion.

Physicians and treatment personnel are likely to find the quality of their medical practice improves significantly when they are asked to articulate their decision-making process to nonmedical professionals. Giving words to one's actions and describing one's thought processes to interested third parties has a way of sharpening clinical skills and enhancing treatment results.

Recommendation 3: **Expand pilot programs to localities with highest rates of fatal overdoses.**

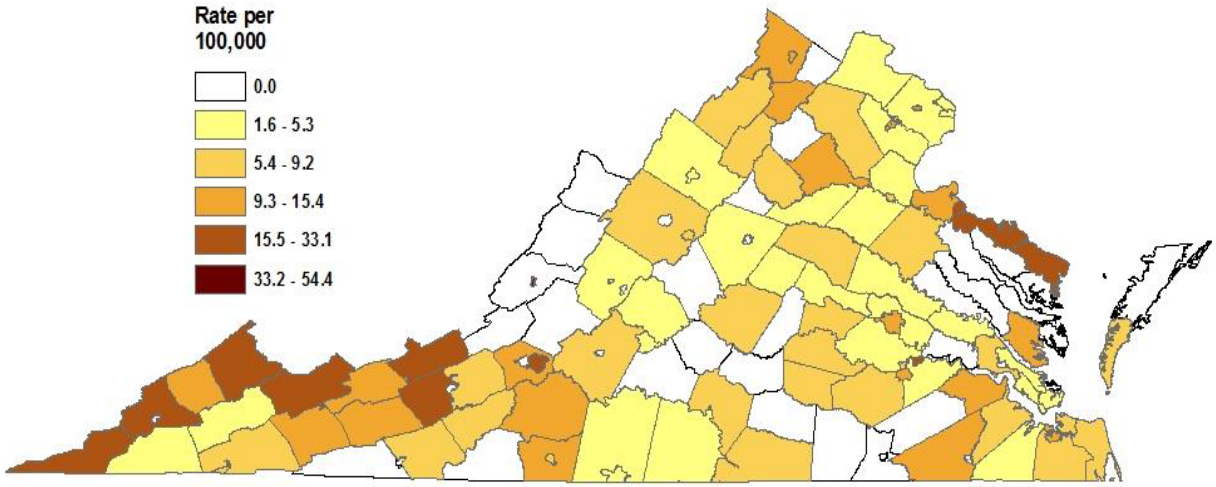
Additional Vivitrol pilot sites should be selected as the data indicates the highest rate of overdoses by heroin and opioid prescription occur. The Virginia Department of Health, Office of the Chief Medical Examiner produced data maps to report the rate of fatal heroin and other prescription opioid overdoses. The current pilot site locations are not where the data indicates the highest need for this intervention. The most recent data maps are provided below.

Rate of Fatal Heroin Overdoses by Locality of Overdose, 2017



Source: Virginia Department of Health, Office of the Chief Medical Examiner

Rate of Fatal Prescription Opioid (Excluding Fentanyl) Overdoses by Locality of Overdose, 2017



Source: Virginia Department of Health, Office of the Chief Medical Examiner

Recommendation 4: **Continue to promote knowledge of the benefits of MAT.**

The barriers to providing MAT appear to have been removed. Judges and their drug court teams may benefit from education regarding the critical role MAT can play in helping drug treatment court participants achieve recovery, however. Sheriffs and jail administrators may also benefit from up-to-date information, access to qualified physicians, and funding to support necessary staff and to purchase medication. Several local and regional jails in Virginia have expressed interest and support to provide MAT services to inmates that suffer from Substance Use Disorder and co-occurring disorders. The Department of Criminal Justice Services (DCJS) has long supported these initiatives by providing technical assistance, training opportunities, and funding. The Department currently administers three funding streams that support such programs.

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Appendix A

Virginia 2019-2020 State Budget (Items 38 H. #4):

4. Included in this item is $100,000 the first year and $100,000 the second year from the general fund to support two substance abuse treatment pilot programs at the Norfolk Adult Drug Court and the Henrico County Adult Drug Court utilizing non-narcotic, non-addictive, long-acting, injectable prescription drug treatment regimens. The Norfolk and Henrico County Adult Drug Courts shall utilize these resources to support pilot program medication, provider fees, counseling, and patient monitoring. The Executive Secretary of the Supreme Court shall report the results of the pilot program, as well as recommendations for expansion of the pilot program to other drug courts, to the Secretaries of Public Safety and Homeland Security and Health and Human Resources, the Director of the Department of Planning and Budget, the Chairman of the Virginia State Crime Commission, and the Chairmen of the House Appropriations and Senate Finance Committees by October 1 each year of the pilot program. The Norfolk and Henrico County Adult Drug Courts shall provide all necessary information to the Office of the Executive Secretary to conduct such an evaluation.

Virginia 2019-2020 State Budget (Items 38 H. #6):

6. Included in this item is $50,000 the second year from the general fund to support a substance abuse treatment pilot program at the Bristol Adult Drug Court utilizing non-narcotic, non-addictive, long-acting, injectable prescription drug treatment regimens. The Bristol Adult Drug Court shall utilize these resources to support pilot program medication, provider fees, counseling, and patient monitoring. The Executive Secretary of the Supreme Court shall include the results of this pilot program in its report pursuant to Item 38.H.5. The Bristol Adult Drug Court Program shall provide all necessary information to the Office of the Executive Secretary to conduct this evaluation.

Appendix B

For additional specific information for the non-narcotic, non-addictive, long acting, injectable prescription drug please consult the following brief guide made available through SAMHSA.

Clinical Use of Extended-Release Injectable Naltrexone in the Treatment of Opioid Use Disorder: A Brief Guide
http://store.samhsa.gov/product/Clinical-Use-of-Extended-Release-Injectable-Naltrexone-in-theTreatment-of-Opioid-Use-Disorder-A-Brief-Guide/SMA14-4892R