Decision Matrix Summary

Policy Options for 2012 General Assembly Session

November 22, 2011

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Decision Matrix

Considerations in Adding Pseudoephedrine as a Schedule III Controlled Substance (SB 878)

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Senior Health Policy Analyst

Senate Bill 878, introduced by Senator Wm. Roscoe Reynolds, proposed legislation to amend *Code of Virginia* § 54.1-3450 to add pseudoephedrine to Schedule III of Virginia's Drug Control Act which would prohibit the sale of the drug without a prescription. The bill was passed by indefinitely in the Senate Education and Health Committee to allow for review by JCHC.

Proposed and Approved Policy Options

Option 1: Take no action.

Option 2: Introduce legislation to amend the *Code of Virginia* § 54.1-3450 to add pseudoephedrine to Schedule III of the Drug Control Act, which would prohibit it from being sold without a prescription.

☑ **Option 3:** Introduce legislation to amend of the *Code of Virginia* § 18.2-248.8 to require that the log, currently required to be maintained by sellers of products containing ephedrine, pseudoephedrine, or any of their salts, isomers, or salts of isomers, must be kept by a State level law enforcement agency in electronic format, utilizing the National Precursor Log Exchange (NPLEx).

Option 4: Introduce legislation to amend the *Code of Virginia* § 18.2-248.8 to make the purchase of ephedrine and pseudoephedrine, in excess of statutorily-determined amounts, a misdemeanor offense and to establish the maximum amount of ephedrine and pseudoephedrine that can be legally sold or purchased in a 30 day period:

> § 18.2-248.8. Sale **and purchase** of the methamphetamine precursors ephedrine and pseudoephedrine; penalty.
>
> A. The sale of any product containing ephedrine, pseudoephedrine, or any of their salts, isomers, or salts of isomers, alone or in mixture, shall be restricted when provided or sold by a retail distributor or pharmacy as follows:
>
> 1. Retail sales **and purchases** shall be limited to no more than 3.6 grams total of either ephedrine or pseudoephedrine daily and **9 grams within any 30 day period** per individual customer.

Option 5: Introduce legislation to amend Title 18.2 of the *Code of Virginia* to make it unlawful to possess, receive, or otherwise acquire more than 9 grams of ephedrine, pseudoephedrine, or any of their salts, isomers, or salts of isomers; or phenylpropanolamine in any product, mixture, or preparation within any 30 day period. (This restriction does not apply to any quantity of product, mixture, or preparation obtained pursuant to a valid prescription drug order prescribed by a practitioner with appropriate authority.)

> Possession of more than 9 grams of ephedrine, pseudoephedrine, or phenylpropanolamine constitutes a rebuttable presumption of the intent to use the product as a precursor to methamphetamine or another controlled substance. This rebuttable presumption does not apply to:
>
> (1.) A retail distributor of drug products;
> (2.) A wholesale drug distributor, or its agents;

(3.) A manufacturer of drug products, or its agents;
(4.) A pharmacist licensed by the Board of Pharmacy; or
(5.) A licensed health care professional possessing the drug products in the course of carrying out professional duties.

Option 6: Introduce legislation to amend the *Code of Virginia* § 18.2-258.1.A to add ephedrine, pseudoephedrine, or any of their salts, isomers, or salts of isomers to the current list:

> § 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit or forgery. A. It shall be unlawful for any person to obtain or attempt to obtain any drug or procure or attempt to procure the administration of any controlled substance, marijuana, ~~**or**~~ synthetic cannabinoids, ***or ephedrine, pseudoephedrine, or any of their salts, isomers, or salts of isomers*****:** (i) by fraud, deceit, misrepresentation, embezzlement, or subterfuge; or (ii) by the forgery or alteration of a prescription or of any written order; or (iii) by the concealment of a material fact; or (iv) by the use of a false name or the giving of a false address. (Class 1 misdemeanor)

Study of Eating Disorders in the Commonwealth (SJR 294)

Michele L. Chesser, Ph.D.

Senate Joint Resolution 294 was introduced by Senator Linda T. Puller and directed the Joint Commission on Health Care to study eating disorders in the Commonwealth. The study was left in the House Rules Committee; however, JCHC members voted to complete the study.

Proposed and Approved Policy Options

Option 1: Take no action.

☑ **Option 2:** Request by letter of the JCHC Chairman that the Virginia Department of Education encourage grade schools, middle schools, and high schools to provide homeroom teachers and school nurses with instruction *or information* approved by the American Medical Association or the National Eating Disorders Association on how to recognize eating disorders and how to help youth who may be affected get the care they need.

☑ **Option 3:** Request by letter of the JCHC Chairman that the Virginia Department of Education encourage schools to provide instruction *or information* approved by the American Medical Association or the National Eating Disorders Association on healthy eating habits and positive body image to students at some point during the fourth, fifth, or sixth grade.

Option 4: Request by letter of the JCHC Chairman that:

A. The Medical Society of Virginia encourage pediatricians and general practitioners to complete an online continuing education course on eating disorders, such as the new 15 minute, online course created by the American Medical Association.

B. The Virginia Nurses Association encourage nurse practitioners and nurses to complete an online continuing education course on eating disorders, such as the new 15 minute, online course created by the American Medical Association.

Lynn S. Grefe and Lara Gregorio on behalf of NEDA asked JCHC to consider an additional option:

☑ ***Amended Potential Option 5:*** Request by letter of the JCHC Chairman that the Virginia Department of Health and the Virginia Department of Education collaborate with the National Eating Disorders Association, and other interested stakeholders, to ~~develop~~ *study* an evidence-based eating disorder screening program for *potential* implementation in Virginia's school systems. JCHC staff will report back to the JCHC in 2012 regarding progress ~~made on developing an evidence-based eating disorder school screening program and~~ ~~deliver staff's~~ *and staff* recommendations for *potential* legislative implementation.

Carol Blum Papillon on behalf of the Virginia Dietetic Association also suggested an additional option for JCHC consideration:

Potential Option 6*:* Include in the 2012 work plan for JCHC's Healthy Living/Health Services Subcommittee, continued study of options that would enhance treatment and address insurance coverage for eating disorders.

Replicating James Madison University's Caregivers Community Network

Michele L. Chesser, Ph.D.

In 2009, JCHC conducted the study, *Improving Aging-at-Home Services and Support for Culture Change Initiatives*, and members approved a policy option to include on the JCHC 2010 work plan a staff study of the feasibility of replicating James Madison University's Caregivers Community Network in other areas of the Commonwealth. It was determined that one of the proposed policy options would be to introduce a budget amendment to fund demonstration grants for a two-year period. Consequently, presentation of the study was delayed until 2011 to correspond with the beginning of the two-year budget cycle.

Proposed and Approved Policy Options

☑ **Option 1:** Take no action.

Option 2: Introduce a budget amendment (language and funding) for the Virginia Department for the Aging to provide grant funding of $370,900 GFs for two demonstration projects to replicate JMU's Caregivers Community Network at other colleges or universities in the Commonwealth.

Option 3: Introduce a budget amendment (language and funding) for the Virginia Department for the Aging to provide grant funding of $509,400 GFs for three demonstration projects to replicate JMU's Caregivers Community Network at other colleges or universities in the Commonwealth.

Option 4: Include on the JCHC 2012 work plan, a staff study of the availability of respite services for caregivers in the Commonwealth. (Option added by JCHC members)

Courtney Tierney on behalf of the Virginia Association of Area Agencies on Aging suggested the following revised Option 4:

Potential Revision of Option 4*: Include on the JCHC 2012 work plan, a staff study of the benefit and availability of support services for family and informal caregivers in the Commonwealth. In completing the study, staff will work with representatives of the Virginia Department for the Aging, the Virginia Association of Area Agencies on Aging, AARP-Virginia, Virginia Alzheimer's and Related Disorders Commission, Virginia Center on Aging, and other stakeholders.*

Study of Shaken Baby Syndrome
(HJR 632)

Jaime H. Hoyle
Senior Staff Attorney/Health Policy Analyst

House Joint Resolution 632, introduced by Delegate Glen Oder, was passed during the 2011 Session of the General Assembly. The resolution directed JCHC "to study the cost of Shaken Baby Syndrome and abusive head trauma in Virginia and identify best practices in reducing the incidence" of this type of intentional injury to children.

Proposed and Approved Policy Options

Option 1: Take no action

Option 2: Introduce budget amendments (language and funding) to allow the Virginia Department of Health to undertake or contract for a hospital-based prevention program to include training maternity staff to talk with parents of newborn babies, and provide those parents with a video presentation on the dangers of shaking infants.

- A. Statewide program (estimated cost to be determined but not expected to exceed $300,000 per year)
- B. One or more demonstration projects at $10,000 or $50,000 per year

Option 3: Introduce budget amendments (language and funding) to allow the Virginia Department of Health to undertake or contract for a pediatric office-based prevention program to provide staff training and video presentations on the dangers of shaking infants.

- A. Statewide program (estimated cost to be determined but not expected to exceed $300,000 per year)
- B. One or more demonstration projects at $10,000 or $50,000 per year

Option 4: Request by letter of the JCHC chairman that such State agencies as the Departments of Health, Social Services, Behavioral Health and Developmental Services, Rehabilitative Services, and Education collaborate with other public and private stakeholders to develop a more comprehensive SBS prevention initiative. The initiative, which would be reported to the chairmen of the Joint Commission and the Virginia Disability Commission, should include:

- A collection of prevention and training programs designed for use in hospitals, pediatricians' offices, child day care and foster-care training, middle school classes, and juvenile and adult court and correctional settings.
- Public service announcements and advertisements.
- Supportive programs for victims of Shaken Baby Syndrome and their families.
- Creation of a surveillance and data collection program to measure the incidence of SBS and traumatic brain injury in infants and children in the Commonwealth of Virginia.

Commissioner Karen Remley indicated that VDH "has several ongoing initiatives that promote the prevention of Shaken Baby Syndrome" and suggested the following revised Option 4:

☑ ***Revised Option 4:*** *Request by letter of the chairman that the Departments of Health, Social Services, Behavioral Health and Developmental Services, Rehabilitative Services, and Education collaborate with other public and private sector stakeholders to identify current best practices, state-wide programs, surveillance and data, initiatives and interventions dedicated to addressing infant mortality in Virginia, including those efforts dedicated with specific attention to Shaken Baby Syndrome as a cause of infant mortality. The Virginia Department of Health, by July 1, 2013 and in collaboration with other agencies and stakeholders, shall submit a report to the Joint Commission on Health Care* [and the Virginia Disability Commission] *detailing these efforts with recommendations for improving public awareness and professional intervention and collaborative practices, and future program and policy development, supported by appropriate evaluation and outcome measures.*

Steve Stowe, President of Shaken Baby of Virginia, commented in support of an additional policy option which is shown as the following addition:

Potential Addition to Option 4: After *collaborate with other public and private sector stakeholders,* add the language "including officers of Shaken Baby Syndrome of Virginia" if either version of Option 4 is approved.

☑ **Option 5**: Introduce a joint resolution to establish the third week of April as Shaken Baby Awareness Week in Virginia. The resolution would be in memory of Jared and the many other victims of Shaken Baby Syndrome in Virginia.

Option 6: Include in the 2012 work plan for the Behavioral Health Care Subcommittee, continuation of the study for a second year to consider definitional and medical coding issues.

Involuntary Admission of Persons in Need of Substance Abuse Treatment (HJR 682)

Jaime H. Hoyle

House Joint Resolution 682, introduced by Delegate John M. O'Bannon, III, directed that JCHC "shall (i) determine whether procedures for emergency custody, involuntary temporary detention, and involuntary admission for treatment are currently being used to commit persons with substance abuse or addiction disorders whose substance use creates a substantial likelihood that the person will cause serious physical harm to himself or others or suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs; (ii) if involuntary admission procedures are not being used for such purpose, determine whether individuals with substance abuse or addiction disorders might benefit from use of emergency custody, involuntary temporary detention, and involuntary admission procedures when statutory criteria are met; and (iii) if use of involuntary commitment procedures are found to offer potential benefits for persons with substance abuse or addiction disorders, provide recommendations for increasing the use of such procedures to protect the health and safety of individuals with substance abuse or addiction disorders and other residents of the Commonwealth." HJR 682 was left in the House Rules Committee with the understanding that JCHC members could choose to complete the review.

Proposed and Approved Policy Options

Option 1: Take no action.

☑ **Option 2**: Include in the 2012 work plan for the Behavioral Health Care Subcommittee, a study of whether mandatory outpatient treatment can be structured to address more effectively the needs of persons with substance abuse treatment. In addition, by letter of the Chairman, request that representatives of the Department of Behavioral Health and Developmental Services, community services boards, and other interested parties participate in the study.

Chronic Health Care Homes
(HJR 82 – 2010)

Jaime H. Hoyle

House Joint Resolution 82 was introduced during the 2010 General Assembly by Delegate Patrick A. Hope. The resolution directed JCHC to complete a two-year study of "the feasibility of developing chronic health care homes in the Commonwealth."

Proposed and Approved Policy Options

Option 1: Take no action.

☑ **Option 2**: Continue to monitor the progress of primary care medical homes and other health care innovations in Virginia by including reports on initiatives in the 2012 work plan of the Healthy Living/Health Services Subcommittee.

Review of Certain Board of Pharmacy Practices (HB 1961 and HB 1966)

Jaime H. Hoyle

Two bills, introduced by Delegate Thomas D. Rust to make changes in Board of Pharmacy regulations, were referred to JCHC by the Chairman of the House Committee on Health, Welfare and Institutions for further study of the issues addressed in the bills. HB 1961 would require the Board of Pharmacy "to promulgate regulations including the criteria for recusal of individual Board members from participation in any disciplinary proceeding involving a pharmacy, pharmacist or pharmacy technician with whom the Board member works, or by whom the member is employed." HB 1966 would allow "anyone to report to the Board of Pharmacy any information on a pharmacist, pharmacy intern, or pharmacy technician who may have substance abuse or mental health issues that render him a danger to himself or others."

Proposed and Approved Policy Options

☑ **Option 1**: Provide a written report to the Chairman of the House Committee on Health, Welfare and Institutions without taking any other action.

Option 2: Provide a written report to the Chairman of the House Committee on Health, Welfare and Institutions and include in the letter that JCHC voted:

> In support of recommending that the Board of Pharmacy record, in the minutes of any formal disciplinary hearing, a statement regarding any Board member who recused himself from participating in the hearing.

Option 3: Provide a written report to the Chairman of the House Committee on Health, Welfare and Institutions and include in the letter that JCHC voted:

> In support of amending the *Code of Virginia* § 54.1-2400.2.F to change the permissive "may" to a compulsory "shall" as shown:
>
> > **"**The relevant board ~~may~~ shall also inform the source of the complaint or report (i) that an investigation has been conducted, (ii) that the matter was concluded without a disciplinary proceeding, (iii) of the process the board followed in making its determination, and (iv) if appropriate, the result of the proceeding including that an advisory letter from the board has been communicated to the person who was the subject of the complaint or report without the content of the letter."

Option 4: Provide a written report to the Chairman of the House Committee on Health, Welfare and Institutions and include in the letter that JCHC voted:

> In support of amending Title 54 of the *Code of Virginia* to extend mandatory reporting requirements (similar to the requirements for hospitals and other health care institutions in *Code* § 54.1-2400.6) to require pharmacists and pharmacies to report on disciplinary actions, treatment needs, and commitments and inpatient admissions related to "substance abuse or psychiatric illness that may render the….[pharmacy-related] professional a danger to himself, the public or his patients."

All-Payer Claims Databases

Stephen W. Bowman
Senior Staff Attorney/Methodologist

A 2010 JCHC study of the availability and use of catastrophic health plans (HJR 99 – Delegate Stolle) included a policy option to review the development of an All-Payer Claims Database (APCD) in an effort to improve quality and health outcomes in the Commonwealth.

Proposed and Approved Policy Options

Option 1: Take no action.

☑ **Option 2:** Introduce legislation and accompanying budget amendment *(amount is dependent on decisions made related to the APCD design and funding structure)* to amend Chapter 7.2 of Title 32.1 of the *Code of Virginia* to expand health data collected in order to develop an All-Payer Claims Database.

Option 3: By letter of the JCHC Chairman, indicate support for the creation of a Virginia All-Payer Claims Database. The letter would be sent to the Senate Committee on Commerce and Labor; House Committee on Commerce and Labor; Senate Committee on Education and Health; and House Committee on Health, Welfare and Institutions.

Option 4: Include in the legislation or a Chairman's letter (if Option 2 or 3 is approved), specific attributes for the All-Payer Claims Database.

A. Governance structure is housed at:

☑ 1. Virginia Health Information (VHI)

2. Another public or private entity other than VHI.

B. Types of data collected

☑ 1. Adhere to national reporting standards for medical claims (e.g. Accredited Standard Committee X12 standards when finalized)

2. APCD will determine the required data elements

C. Data collection from health insurers

☑ 1. Mandated collection

2. Voluntary submission

Option 5: Include in the 2012 work plan for JCHC's Healthy Living/Health Services Subcommittee, continued study of an All-Payer Claims Database for Virginia.

Public Access to Vital Records (SB 865)

Stephen W. Bowman

Senate Bill 865, introduced by Senator Harry B. Blevins, sought to make genealogical records in Virginia more accessible to the public by amending the *Code of Virginia* § 32.1-271(D) to require the State Registrar to make birth, death, marriage, and divorce records available to the public when statutory timeframes for privacy expire.

SB 865 was passed by indefinitely in the Senate Committee on Education and Health and a letter was sent to the Joint Commission on Health Care requesting the submission of a written report to the Chair of the Senate Education and Health Committee, the bill patron, and the Senate Clerk's Office.

Proposed and Approved Policy Options

Option 1: Provide a written report to the Chair of the Senate Committee for Education and Health, the chief patron of SB 865 (Sen. Blevins), and the Clerk of the Senate, without taking any other action.

Option 2: Introduce legislation to amend the *Code of Virginia* § 32.1-271(D) to change the time period that birth records "in the custody of the State Registrar may become public information" from 100 years to:

A. 125 years *(preliminary recommendation of CDC)*
B. 75 years *(in compliance with the Library of Virginia's statutory confidential records time period)*

Option 3: Introduce legislation to amend the *Code of Virginia* § 32.1-271(D) to change the time period that marriage, divorce, and annulment records "in the custody of the State Registrar may become public information" from 50 years to:

A. 75 years *(preliminary recommendation of CDC)*
B. Immediately *(the records held by Circuit Courts are open for public inspection already)*

☑ ***Potential 3C** – 25 years*

Option 4: Introduce legislation to amend the *Code of Virginia* § 32.1-271(D) to change the time period that death records "in the custody of the State Registrar may become public information" from 50 years to:

A. 75 years *(preliminary recommendation of CDC)*
☑ B. 25 years *(Social Security Death Index provides extensive information already)*

***Potential 4C** – make death records immediately available.*

Option 5: Introduce legislation to amend the *Code of Virginia* § 2.2-3815 to allow the State Registrar to disclose the entire social security number on a deceased individual's death record.

Option 6: Introduce legislation to amend the *Code of Virginia* § 32.1-271 to allow additional family members to receive birth, marriage, divorce and annulment records from the State Registrar in keeping with the authority that immediate family members currently have.

- Degree of lineal kinship to record requestor would need to be determined.
  - *Code of Virginia* § 6.2-1074 uses 5th degree kinship language
- The vital record disclosed may be of a living person.

Option 7: Introduce legislation to amend the *Code of Virginia* § 32.1-271 to allow additional family members to receive death records from the State Registrar in keeping with the authority that immediate family members currently have.

- Degree of lineal kinship to record requestor would need to be determined.

Option 8: Introduce a budget amendment to require the State Registrar to create by 2014, a publicly-available index of vital records that are authorized for release to the public. *(At a minimum, the Index would include first and last name, year of birth, and gender.)*

A. The index will be created within the Office of Vital Records.
   - Budget language and funding – VDH estimates $2.6 million over 2.5 years to create an online index of public records

B. VDH will seek to enter into a public-private partnership to create a publicly-available index by an organization that has demonstrated experience in copying and indexing historical vital records. (*State Registrar and the Library of Virginia may publish the index as well.)*
   - Budget language

C. VDH will seek to enter into a public-private partnership to create a publicly-available index and digital copies of public vital records by an organization that has demonstrated experience in copying and indexing historical vital records. (*State Registrar and the Library of Virginia may publish the index as well.)*
   - Budget language

Membership

The Honorable Benjamin L. Cline, Chair
The Honorable Linda T. Puller, Vice-chair

SENATE OF VIRGINIA
The Honorable Harry B. Blevins
The Honorable R. Edward Houck
The Honorable L. Louise Lucas
The Honorable Ralph S. Northam
The Honorable Patricia S. Ticer
The Honorable William C. Wampler, Jr.

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