

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 140 Session of
2011

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BOBACK AND RAVENSTAHL, JANUARY 20, 2011

SENATOR CORMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, JUNE 29, 2011

AN ACT

1 Establishing the Methadone Death and Incident Review Team and
2 providing for its powers and duties; and imposing a penalty.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Methadone
7 Death and Incident Review Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Department." ~~The Department of Health of the Commonwealth~~ ←
13 THE COMMONWEALTH DEPARTMENT CHARGED WITH OVERSIGHT OF DRUG AND ←
14 ALCOHOL PROGRAMS, CURRENTLY THE DEPARTMENT OF HEALTH OF THE

1 COMMONWEALTH.

2 "Drug-free drug and alcohol addiction treatment program." A
3 drug and alcohol addiction treatment program that is not
4 licensed as a narcotic treatment program by the ~~Department of~~
5 ~~Health~~ DEPARTMENT. ←

6 "METHADONE-RELATED INCIDENT." ANY SITUATION NOT INVOLVING A ←
7 FATALITY WHERE METHADONE MAY BE A CONTRIBUTING FACTOR IN THE
8 BEHAVIOR OF AN INDIVIDUAL.

9 "Patient or family advocate." A person who works as a
10 patient or family advocate at a drug and alcohol addiction
11 treatment program or a group of programs.

12 "SECRETARY." THE SECRETARY OF THE DEPARTMENT AS DEFINED IN ←
13 THIS SECTION.

14 "Team." The Methadone Death and Incident Review Team
15 established under section 3.
16 Section 3. Establishment of Methadone Death and Incident Review
17 Team.

18 (a) Team established.--The department shall establish a
19 Methadone Death and Incident Review Team and conduct a methadone
20 death review for all deaths where methadone was either a primary
21 or secondary cause of death. The team shall examine the
22 circumstances surrounding methadone-related deaths AND ←
23 METHADONE-RELATED INCIDENTS in this Commonwealth for the purpose
24 of promoting safety and reducing methadone-related deaths AND ←
25 METHADONE-RELATED INCIDENTS. ~~The deaths that may be reviewed~~ ←
26 ~~include, but are not limited to, drug overdoses and motor-~~
27 ~~vehicle accidents involving methadone patients. In addition, the~~
28 ~~team shall act as a repository for complaints and problems~~
29 ~~arising from the operation of opiate treatment programs.~~

30 (b) Composition.--The team shall consist of the following

1 individuals:

2 (1) The ~~Secretary of Health~~ SECRETARY or a designee, who ←
3 shall serve as the chairperson of the team.

4 (2) The Director of the Bureau of Drug and Alcohol
5 Programs.

6 (3) The following individuals appointed by the ~~Secretary~~ ←
7 ~~of Health~~ SECRETARY: ←

8 (i) A representative from narcotic treatment
9 programs as defined in 28 Pa. Code § 701.1 (relating to
10 general definitions).

11 (ii) A representative from a licensed drug and
12 alcohol addiction treatment program that is not defined
13 as a narcotic treatment program.

14 (iii) A representative from law enforcement
15 recommended by a Statewide association representing
16 members of law enforcement.

17 (iv) A representative from the medical community
18 recommended by a Statewide association representing
19 physicians.

20 (v) A district attorney recommended by a Statewide
21 association representing district attorneys.

22 (vi) A coroner or medical examiner recommended by a
23 Statewide association representing county coroners and
24 medical examiners.

25 (vii) A member of the public.

26 (viii) A patient or family advocate.

27 (c) Initial meeting.--The initial meeting of the team shall
28 take place within 90 days of the effective date of this act.
29 During this initial meeting, the team shall develop a schedule
30 for its work and reports.

(d) Expenses.--Members of the team shall not receive compensation but shall be reimbursed for travel and other necessary expenses.

Section 4. Team duties.

The team shall:

(1) Review each death where methadone was either the primary or a secondary cause of death and review methadone-related incidents.

(2) Determine the role that methadone played in each death and methadone-related incident.

(3) Communicate concerns to regulators and ~~ensure communication throughout the system~~ FACILITATE COMMUNICATION WITHIN THE HEALTH CARE AND LEGAL SYSTEMS about issues that could threaten health and public safety.

(4) Develop best practices to prevent future methadone-related deaths and methadone-related incidents. The best practices shall be:

(i) Promulgated by the department as regulations.


(ii) Posted on the department's Internet website.

(5) Collect and store data on the number of COMPLAINTS AND PROBLEMS ARISING FROM THE OPERATION OF OPIATE TREATMENT PROGRAMS, methadone-related deaths and methadone-related incidents, and provide a brief description of each death and incident. These aggregate statistics shall be posted on the department's Internet website.


(6) DEVELOP A FORM FOR THE SUBMISSION OF METHADONE-RELATED INCIDENTS TO THE TEAM BY ANY CONCERNED PARTY.

~~(6)~~ (7) Develop in consultation with the coroners and medical examiners a model form for county coroners and medical examiners to use to report and transmit information

1 regarding methadone-related deaths to the team.

2 ~~(7)~~ (8) Prepare an annual report that shall be posted on 
3 the department's Internet website and distributed to the
4 chairman and minority chairman of the Judiciary Committee of
5 the Senate, the chairman and minority chairman of the Public
6 Health and Welfare Committee of the Senate, the chairman and
7 minority chairman of the Judiciary Committee of the House of
8 Representatives and the chairman and minority chairman of the
9 Human Services Committee of the House of Representatives.

10 Each report shall:


11 (i) Provide public information regarding the
12 ~~incidence~~ NUMBER and causes of methadone-related deaths 
13 and methadone-related incidents.

14 (ii) Provide aggregate data on five-year trends on
15 methadone use and abuse and methadone-related incidents
16 when such information is available.

17 (iii) Make recommendations to prevent future
18 methadone deaths and abuse and methadone-related
19 incidents.

20 (iv) Recommend changes to statutes and regulations
21 to decrease methadone-related deaths and methadone-
22 related incidents.

23 (v) Provide a report on methadone-related incidents
24 and concerns regarding narcotic treatment programs.

25 ~~(8)~~ (9) Develop and publish on the department's Internet 
26 website a list of meetings for each year.

27 Section 5. Duties of coroner and medical examiner.

28 A county coroner or medical examiner shall forward all death
29 cases involving methadone as the primary or secondary cause of
30 death to the team for review. The county coroner and medical

1 examiner shall use the model form developed by the team to
2 transmit the data.

3 Section 6. Review procedures.

4 The team may review the following information:

5 (1) Coroner's reports or postmortem examination records
6 unless otherwise prohibited by Federal or State laws,
7 regulations or court decisions.

8 (2) Death certificates and birth certificates.

9 (3) Law enforcement records and interviews with law
10 enforcement officials as long as the release of such records
11 will not jeopardize an ongoing criminal investigation or
12 proceeding.

13 (4) Medical records from hospitals and other health care
14 providers.

15 (5) Information and reports made available by the county
16 children and youth agency in accordance with 23 Pa.C.S. Ch.
17 63 (relating to child protective services).

18 (6) Information made available by firefighters or
19 emergency services personnel.

20 (7) Reports and records made available by the court to
21 the extent permitted by law or court rule.

22 (8) EMS records.

23 (9) Traffic fatality reports.

24 (10) Any other records necessary to conduct the review.

25 (11) ~~Licensure facility~~ FACILITY LICENSURE surveys from ←
26 the ~~department~~ DEPARTMENT'S Bureau of Community Program ←
27 Licensure and Certification, Division of Drug and Alcohol
28 Program Licensure.

29 Section 7. Access to records.

30 (a) Juvenile records.--When deemed necessary for its review,

1 the team may review and inspect all files and records of the
2 court relating to a child pursuant to a proceeding under 42
3 Pa.C.S. Ch. 63 (relating to juvenile matters) in accordance with
4 42 Pa.C.S. § 6307 (relating to inspection of court files and
5 records). However, this subsection shall not apply to files and
6 records of the court subject to a child fatality or near
7 fatality review pursuant to 23 Pa.C.S. Ch. 63 (relating to child
8 protective services).

9 (b) Medical records.--Notwithstanding any other provision of
10 law and consistent with the Health Insurance Portability and
11 Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936)
12 and 42 CFR Pt. 2 (relating to confidentiality of alcohol and
13 drug abuse patient records), health care facilities and health
14 care providers shall provide medical records of an individual
15 under review without the authorization of a person of interest
16 to the team for purposes of review under this act.

17 (c) Other records.--Other records pertaining to the
18 individual under review for the purposes of this act shall be
19 open to inspection as permitted by law.

20 Section 8. Confidentiality.

21 (a) Maintenance.--The team shall maintain the
22 confidentiality of any identifying information obtained relating
23 to the death of an individual or adverse incidents regarding
24 methadone, including the name of the individual, guardians,
25 family members, caretakers or alleged or suspected perpetrators
26 of abuse, neglect or a criminal act.

27 (b) Agreement.--Each member of the team and any person
28 appearing before the team shall sign a confidentiality agreement
29 applicable to all proceedings and reviews conducted by the team.

30 (c) Liability.--An individual or agency that in good faith

1 provides information or records to the team shall not be subject
2 to civil or criminal liability as a result of providing the
3 information or record.

4 (d) Discovery.--The proceedings, deliberations and records
5 of the team are privileged and confidential and shall not be
6 subject to the act of February 14, 2008 (P.L.6, No.3), known as
7 the Right-to-Know Law, discovery, subpoena or introduction into
8 evidence in any civil or criminal action.

9 (e) Meetings.--Meetings of the team at which a specific
10 death is discussed shall be closed to the public and shall not
11 be subject to the provisions of 65 Pa.C.S. Ch. 7 (relating to
12 open meetings).

13 (f) Attendance.--Nothing in this act shall prevent the team
14 from allowing the attendance of a person with information
15 relevant to a review at a methadone death and incident team
16 review meeting.

17 (g) Penalty.--A person who violates the provisions of this
18 section commits a misdemeanor of the third degree.

19 ~~Section 9. Transfer to Department of Drug and Alcohol Programs.~~ ←

20 ~~On July 1, 2011, all powers and duties of the Department of~~
21 ~~Health under this act shall be transferred to the Department of~~
22 ~~Drug and Alcohol Programs with the same force and effect as if~~
23 ~~the powers and duties had been granted to the Department of Drug~~
24 ~~and Alcohol Programs in the first instance.~~

25 Section ~~10~~ 9. Regulations. ←

26 The department shall promulgate regulations as necessary to
27 carry out the purposes of this act.

28 Section ~~11~~ 20. Effective date. ←

29 This act shall take effect in 90 days.