

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 941

PRINTER'S NO. 1148

AMOUNT

No Fiscal Impact

FUND

General Fund

DATE INTRODUCED

September 28, 2023

PRIME SPONSOR

Senator Brooks

DESCRIPTION

Senate Bill 941 amends the Administrative Code in the Department of Drug and Alcohol Programs (DDAP) to define an "opioid epidemic" and to provide for flexibilities in staffing addiction treatment programs.

The bill amends the powers and duties of DDAP to include an annual report to be submitted to the General Assembly. The annual report shall:

- Specify the actions taken, services provided and funds expended, including an evaluation of their effectiveness;
- Include the current Medicaid State Plan related to DDAP providers and services; and
- Contain the most recent quarterly evaluation by DDAP.

The bill requires DDAP to submit additional reports as requested by the General Assembly and recommendations to further the prevention, treatment and control of drug and alcohol abuse and dependence.

The most recent quarterly evaluation shall support substance use disorder treatment providers and their workforce by evaluating the following on a quarterly basis:

- Barriers to entry into the workforce, including years of experience in the field of substance use disorder treatment, counseling, therapy or other functions beyond the qualifications specified in the regulatory requirements for provider staffing;
- Efforts to address these barriers.

The quarterly evaluation shall also include individuals in recovery seeking to work in the field of addiction treatment and recovery as outlined in the regulations under the powers and duties of DDAP.

The bill adds a section to define regulatory flexibility during an opioid epidemic by suspending the following regulations:

- 28 Pa. Code § 704.7(b)(1) relating to qualifications for the position of counselor insofar as the regulation precludes an individual licensed in this Commonwealth as any of the following from serving as a counselor: a certified registered nurse practitioner and a physician assistant.

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- 28 Pa. Code § 704.7(b)(3), (4), and (5) insofar as the regulation requires a counselor to have a certain number of years of clinical experience in a health or human services agency if the counselor meets the postsecondary degree requirements required of them;
- 28 Pa. Code § 704.8(a) relating to qualifications for the position of counselor assistant insofar as the regulation prohibits a counselor supervisor or counselor to supervise more than one counselor assistant. In such cases, the counselor supervisor or counselor may not supervise more than three counselor assistants;
- 28 Pa. Code § 704.12(a)(1) relating to full-time equivalent (FTE) maximum client/staff and client/counselor ratios insofar as the regulation prohibits:
 - One full-time equivalent primary care staff person to be available for every 10 clients during primary care hours;
 - An individual licensed in this Commonwealth as any of the following from fulfilling the on-call physician requirement: a certified registered nurse practitioner and a physician assistant.
- 28 Pa. Code § 704.12(a)(3)(i) insofar as the regulation prohibits one FTE counselor to be available for every 12 adult clients;
- 28 Pa. Code § 704.12(a)(6) and 28 Pa. Code § 715.8(1)(vi) insofar as the regulations prohibits one FTE counselor caseload from exceeding 50 active clients who have been in treatment for fewer than two years. Each client who has been in treatment for two years or more shall not count toward the outpatient caseload per counselor;
- 28 Pa. Code § 704.12(d) insofar as the regulation prohibits the suspension of regulations under this subsection; and
- 28 Pa. Code § 715.8(1)(vi) insofar as the regulation prohibits one full-time equivalent counselor caseload from exceeding 50 active clients who have been in treatment for fewer than two years. Each client who has been in treatment for two years or more shall not count toward the outpatient caseload per counselor.

The bill requires that a project director shall notify DDAP in writing or by email of the intent to utilize the regulatory flexibility under this section.

The bill states that this section shall apply during the existence of an opioid epidemic. For purposes of this section, an opioid epidemic shall be deemed to exist beginning on the effective date of this section. This section shall not apply when an opioid epidemic does not exist. Except for the opioid epidemic deemed to exist beginning on the effective date of this section, the Secretary of DDAP shall, upon determining that an opioid epidemic does or does not exist, transmit notice to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania

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Bulletin. The periods of applicability of this section shall begin or end upon publication of the notice in the Pennsylvania Bulletin.

The bill defines the following words and phrases when used in this subsection unless the context clearly indicates otherwise:

- “Opioid epidemic” as a public health crisis in which illicit opioid use and abuse results in more than 1,000 confirmed overdose deaths from an opioid in a calendar year over at least three consecutive years in this Commonwealth, as the number of deaths are reported by the Department of Health in the Coroner and Medical Examiner Onboarding and Drug Overdose Death Monthly Surveillance Report; and
- “Project director” is the administrator of the treatment project who is responsible for the overall management of the project and staff and who meets the education and experience requirements under the regulatory requirements for staffing for drug and alcohol treatment activities.

This act shall take effect immediately.

FISCAL IMPACT:

Senate Bill 941 will have no fiscal impact to the Commonwealth. The Department of Drug and Alcohol Programs is able to accommodate the quarterly reporting requirements within its existing budget and staffing levels.