METHADONE DEATH AND INCIDENT REVIEW ACT - ENACTMENT
Act of Oct. 24, 2012, P.L. 1198, No. 148 Cl. 35

An Act

Establishing the Medication Death and Incident Review Team and providing for its powers and duties; and imposing a penalty. (Title amended Nov. 25, 2020, P.L.1228, No.126)

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

Section 1. Short title.
This act shall be known and may be cited as the Medication Death and Incident Review Act.
(1 amended Nov. 25, 2020, P.L.1228, No.126)
Section 2. Definitions.
The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:
"Department." The Department of Drug and Alcohol Programs of the Commonwealth.
"Medication-related death." A death where a medication approved by the United States Food and Drug Administration for the treatment of opioid use disorder was:
(1) a primary or secondary cause of death; or
(2) may have been a contributing factor.
"Medication-related incident." A situation where a medication approved by the United States Food and Drug Administration for the treatment of opioid use disorder may be a contributing factor which:
(1) does not involve a fatality; and
(2) involves:
(i) a serious injury; or
(ii) unreasonable risk of death or serious injury.
"Opioid-assisted treatment program." A program licensed and approved by the Department of Drug and Alcohol Programs for chronic opiate drug users that administers or dispenses agents under a narcotic treatment physician's order, either for detoxification purposes or for maintenance.
"Opioid use disorder." A problematic pattern of opioid use leading to clinically significant impairment or distress.
"Secretary." The Secretary of Drug and Alcohol Programs of the Commonwealth.
"Team." The Medication Death and Incident Review Team established under section 3.
(2 amended Nov. 25, 2020, P.L.1228, No.126)
Section 3. Establishment of Medication Death and Incident Review Team. (Hdg. amended Nov. 25, 2020, P.L.1228, No.126)
(a) Team established.--The department shall establish a Medication Death and Incident Review Team and conduct a review and shall examine the circumstances surrounding medication-related deaths and medication-related incidents in this Commonwealth for the purpose of promoting safety, reducing medication-related deaths and medication-related incidents and improving treatment practices. ((a) amended Nov. 25, 2020, P.L.1228, No.126)
(b) Composition.--The team shall consist of the following individuals:
(1) The secretary or a designee, who shall serve as the chairperson of the team.

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

(3) The following individuals appointed by the secretary:

(i) A representative from an opioid-assisted treatment program.

(ii) A representative from a licensed drug and alcohol addiction treatment program that is not defined as an opioid-assisted treatment program.

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

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

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

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

(vii) A member of the public.

(viii) A patient or family advocate.

(ix) A representative from a recovery organization.

(x) An office-based agonist treatment provider who is assigned a waiver from the Drug Enforcement Administration, including a special identification number, commonly referred to as the "X" DEA number, to provide office-based prescribing of buprenorphine.

(xi) A representative of the Department of Health who is affiliated with the Achieving Better Care by Monitoring All Prescriptions Program (ABC-MAP) established under the act of October 27, 2014 (P.L.2911, No.191), known as the Achieving Better Care by Monitoring All Prescriptions Program (ABC-MAP) Act.

(xii) A toxicologist.

((3) amended Nov. 25, 2020, P.L.1228, No.126)

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

(d) Expenses.--Members of the team shall not receive compensation but shall be reimbursed for necessary travel and other reasonable expenses incurred in connection with the performance of their duties as members. If possible, the team shall utilize the services and expertise of existing personnel and staff of State government.

Section 4. Team duties.

The team shall:

(1) Review each medication-related death where a medication approved by the United States Food and Drug Administration for the treatment of opioid use disorder was either the primary or a secondary cause of death and review medication-related incidents.

(2) Determine the role that a medication approved by the United States Food and Drug Administration for the treatment of opioid use disorder played in each death and medication-related incident.

(3) Communicate concerns to regulators and 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 medication-related deaths and medication-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 medication-related deaths and medication-related incidents and provide a brief description of each death and incident. The aggregate statistics shall be posted on the department's Internet website.

(6) Develop a form for the submission of medication-related deaths and medication-related incidents to the team by any concerned party.

(7) Develop, in consultation with a Statewide association representing county coroners and medical examiners, a model form for county coroners and medical examiners to use to report and transmit information regarding medication-related deaths to the team. The team and the Statewide association representing county coroners and medical examiners shall collaborate to ensure that all medication-related deaths are, to the fullest extent possible, identified by coroners and medical examiners.

(8) Develop and implement any other strategies that the team identifies to ensure that the most complete collection of medication-related death and medication-related serious incident cases reasonably possible is created.

(9) Prepare an annual report that shall be posted on the department's Internet website and distributed to the chairman and minority chairman of the Judiciary Committee of the Senate, the chairman and minority chairman of the Health and Human Services Committee of the Senate, the chairman and minority chairman of the Judiciary Committee of the House of Representatives and the chairman and minority chairman of the Human Services Committee of the House of Representatives. Each report shall:

(i) Provide public information regarding the number and causes of medication-related deaths and medication-related incidents.

(ii) Provide aggregate data on five-year trends on medication-related deaths and medication-related incidents when such information is available.

(iii) Make recommendations to prevent future medication-related deaths, medication-related incidents and abuse and set forth the department's plan for implementing the recommendations.

(iv) Recommend changes to statutes and regulations to decrease medication-related deaths and medication-related incidents.

(v) Provide a report on medication-related deaths and medication-related incidents and concerns regarding opioid-assisted treatment programs.

(10) Develop and publish on the department's Internet website a list of meetings for each year.

(4 amended Nov. 25, 2020, P.L.1228, No.126)

Section 5. Duties of coroner and medical examiner.

A county coroner or medical examiner shall forward all medication-related death cases to the team for review. The county coroner and medical examiner shall use the model form developed by the team to transmit the data.

(5 amended Nov. 25, 2020, P.L.1228, No.126)

Section 6. Review procedures.

The team may review the following information:

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

(2) Death certificates and birth certificates.

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

(4) Medical records from hospitals, other health care providers and opioid-assisted treatment programs.

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

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

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

(8) EMS records.

(9) Traffic fatality reports.

(10) Opioid-assisted treatment program incident reports.

(11) Opioid-assisted treatment program licensure surveys from the program licensure division.

(12) Any other records necessary to conduct the review.

(6 amended Nov. 25, 2020, P.L.1228, No.126)

Section 7. Access to records.

(a) Juvenile records.--When deemed necessary for its review, the team may review and inspect all files and records of the court relating to a child pursuant to a proceeding under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) in accordance with 42 Pa.C.S. § 6307 (relating to inspection of court files and records). This subsection shall not apply to files and records of the court subject to a child fatality or near fatality review pursuant to 23 Pa.C.S. Ch. 63 (relating to child protective services).

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

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

Section 8. Confidentiality.

(a) Maintenance.--The team shall maintain the confidentiality of any identifying information obtained relating to the death of an individual or adverse incidents regarding medication, including the name of the individual, guardians, family members, caretakers or alleged or suspected perpetrators of abuse, neglect or a criminal act. ((a) amended Nov. 25, 2020, P.L.1228, No.126)

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

(c) Liability.--An individual or agency that in good faith provides information or records to the team shall not be subject to civil or criminal liability as a result of providing the information or record.

(d) Discovery.--The proceedings, deliberations and records of the team are privileged and confidential and shall not be

subject to the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law, discovery, subpoena or introduction into evidence in any civil or criminal action.

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

(f) Attendance.--Nothing in this act shall prevent the team from allowing the attendance of a person with information relevant to a review at a medication death and incident team review meeting. ((f) amended Nov. 25, 2020, P.L.1228, No.126)

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

Section 9. Regulations.

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

Section 20. Effective date.

This act shall take effect in 90 days.