

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 140 Session of 2011

INTRODUCED BY DiGIROLAMO, COHEN, BAKER, BRENNAN, CALTAGIRONE, CAUSER, D. COSTA, CUTLER, J. EVANS, FLECK, GEIST, GEORGE, GINGRICH, GODSHALL, GOODMAN, HORNAMAN, JOHNSON, KAUFFMAN, KILLION, KORTZ, KOTIK, MANN, MURPHY, M. O'BRIEN, O'NEILL, PASHINSKI, PYLE, READSHAW, REED, SABATINA, SANTARSIERO, SCHRODER, J. TAYLOR, VULAKOVICH, WATSON AND CLYMER, JANUARY 20, 2011

REFERRED TO COMMITTEE ON HUMAN SERVICES, JANUARY 20, 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 "Drug-free drug and alcohol addiction treatment program." A
14 drug and alcohol addiction treatment program that is not
15 licensed as a narcotic treatment program by the Department of

1 Health.

2 "Patient or family advocate." A person who works as a
3 patient or family advocate at a drug and alcohol addiction
4 treatment program or a group of programs.

5 "Team." The Methadone Death and Incident Review Team
6 established under section 3.

7 Section 3. Establishment of Methadone Death and Incident Review
8 Team.

9 (a) Team established.--The department shall establish a
10 Methadone Death and Incident Review Team and conduct a methadone
11 death review for all deaths where methadone was either a primary
12 or secondary cause of death. The team shall examine the
13 circumstances surrounding methadone-related deaths in this
14 Commonwealth for the purpose of promoting safety and reducing
15 methadone-related deaths. The deaths that may be reviewed
16 include, but are not limited to, drug overdoses and motor
17 vehicle accidents involving methadone patients. In addition, the
18 team shall act as a repository for complaints and problems
19 arising from the operation of opiate treatment programs.

20 (b) Composition.--The team shall consist of the following
21 individuals:

22 (1) The Secretary of Health or a designee, who shall
23 serve as the chairperson of the team.

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

26 (3) The following individuals appointed by the Secretary
27 of Health:

28 (i) Representatives from narcotic treatment programs
29 as defined in 28 Pa. Code § 701.1 (relating to general
30 definitions).

1 (ii) Representatives from a licensed drug and
2 alcohol addiction treatment program that is not defined
3 as a narcotic treatment program.

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

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

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

12 (vi) A medical examiner recommended by a Statewide
13 association representing medical examiners.

14 (vii) A coroner recommended by a Statewide
15 association representing county coroners.

16 (viii) A member of the public.

17 (ix) A patient or family advocate.

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

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

25 Section 4. Team duties.

26 The team shall:

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

30 (2) Determine the role that methadone played in each

1 death and methadone-related incident.

2 (3) Communicate concerns to regulators and ensure
3 communication throughout the system about issues that could
4 threaten health and public safety.

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

8 (i) Promulgated by the department as regulations.

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

10 (5) Collect and store data on the number of methadone-
11 related deaths and methadone-related incidents, and provide a
12 brief description of each death and incident. These
13 statistics shall be posted on the department's Internet
14 website and shall list the date and county of each death and
15 methadone-related incident and other relevant statistics as
16 determined by the team.

17 (6) Develop a model form for county coroners and medical
18 examiners to use to report and transmit information regarding
19 methadone-related deaths to the team.

20 (7) Prepare an annual report that shall be posted on the
21 department's Internet website and distributed to the chairman
22 and minority chairman of the Judiciary Committee of the
23 Senate, the chairman and minority chairman of the Public
24 Health and Welfare Committee of the Senate, the chairman and
25 minority chairman of the Judiciary Committee of the House of
26 Representatives and the chairman and minority chairman of the
27 Health and Human Services Committee of the House of
28 Representatives. Each report shall:

29 (i) Provide public information regarding the
30 incidence and causes of methadone-related deaths and

methadone-related incidents.

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

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

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

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

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

Section 5. Duties of coroner and medical examiner.

A county coroner or medical examiner shall forward all death cases involving methadone as the primary or secondary cause of death to the team for review. The county coroner and medical examiner shall use the model form developed by the team to transmit the data.

Section 6. Review procedures.

The team may review the following information:

(1) Coroner's reports or postmortem examination records.

(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 and other health care providers.

1 (5) Information and reports made available by the county
2 children and youth agency in accordance with 23 Pa.C.S. Ch.
3 63 (relating to child protective services).

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

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

8 (8) EMS records.

9 (9) Traffic fatality reports.

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

11 (11) Licensure facility surveys from the department
12 Bureau of Community Program Licensure and Certification,
13 Division of Drug and Alcohol Program Licensure.

14 Section 7. Access to records.

15 (a) Juvenile records.--When deemed necessary for its review,
16 the team may review and inspect all files and records of the
17 court relating to a child pursuant to a proceeding under 42
18 Pa.C.S. Ch. 63 (relating to juvenile matters) in accordance with
19 42 Pa.C.S. § 6307 (relating to inspection of court files and
20 records). However, this subsection shall not apply to files and
21 records of the court subject to a child fatality or near
22 fatality review pursuant to 23 Pa.C.S. Ch. 63 (relating to child
23 protective services).

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

1 to the team for purposes of review under this act.

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

5 Section 8. Confidentiality.

6 (a) Maintenance.--The team shall maintain the
7 confidentiality of any identifying information obtained relating
8 to the death of an individual or adverse incidents regarding
9 methadone, including the name of the individual, guardians,
10 family members, caretakers or alleged or suspected perpetrators
11 of abuse, neglect or a criminal act.

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

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

19 (d) Discovery.--The proceedings, deliberations and records
20 of the team are privileged and confidential and shall not be
21 subject to discovery, subpoena or introduction into evidence in
22 any civil or criminal action.

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

27 (f) Attendance.--Nothing in this act shall prevent the team
28 from allowing the attendance of a person with information
29 relevant to a review at a methadone death and incident team
30 review meeting.

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

3 Section 9. Transfer to Department of Drug and Alcohol Programs.

4 On July 1, 2011, all powers and duties of the Department of
5 Health under this act shall be transferred to the Department of
6 Drug and Alcohol Programs with the same force and effect as if
7 the powers and duties had been granted to the Department of Drug
8 and Alcohol Programs in the first instance.

9 Section 10. Regulations.

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

12 Section 11. Effective date.

13 This act shall take effect in 90 days.