

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 140 Session of  
2011

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BOBACK AND RAVENSTAHL, JANUARY 20, 2011

SENATOR VANCE, PUBLIC HEALTH AND WELFARE, IN SENATE, AS AMENDED,  
JUNE 8, 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

1 licensed as a narcotic treatment program by the Department of  
2 Health.

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

6 "Patient or family advocate." A person who works as a  
7 patient or family advocate at a drug and alcohol addiction  
8 treatment program or a group of programs.

9 "Team." The Methadone Death and Incident Review Team  
10 established under section 3.

11 Section 3. Establishment of Methadone Death and Incident Review  
12 Team.

13 (a) Team established.--The department shall establish a  
14 Methadone Death and Incident Review Team and conduct a methadone  
15 death review for all deaths where methadone was either a primary  
16 or secondary cause of death. The team shall examine the  
17 circumstances surrounding methadone-related deaths AND ←

18 METHADONE-RELATED INCIDENTS in this Commonwealth for the purpose  
19 of promoting safety and reducing methadone-related deaths AND ←  
20 METHADONE-RELATED INCIDENTS. The deaths that may be reviewed ←

21 ~~include, but are not limited to, drug overdoses and motor-~~  
22 ~~vehicle accidents involving methadone patients. In addition, the~~  
23 ~~team shall act as a repository for complaints and problems~~  
24 ~~arising from the operation of opiate treatment programs.~~

25 (b) Composition.--The team shall consist of the following  
26 individuals:

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

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

1           (3) The following individuals appointed by the Secretary  
2 of Health:

3           (i) A representative from narcotic treatment  
4 programs as defined in 28 Pa. Code § 701.1 (relating to  
5 general definitions).

6           (ii) A representative from a licensed drug and  
7 alcohol addiction treatment program that is not defined  
8 as a narcotic treatment program.

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

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

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

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

20           (vii) A member of the public.

21           (viii) A patient or family advocate.

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

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

29 Section 4. Team duties.

30 The team shall:

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

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

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

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

13 (i) Promulgated by the department as regulations.

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

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

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

23 ~~(6)~~ (7) Develop in consultation with the coroners and ←  
24 medical examiners a model form for county coroners and  
25 medical examiners to use to report and transmit information  
26 regarding methadone-related deaths to the team.

27 ~~(7)~~ (8) Prepare an annual report that shall be posted on ←  
28 the department's Internet website and distributed to the  
29 chairman and minority chairman of the Judiciary Committee of  
30 the Senate, the chairman and minority chairman of the Public

1 Health and Welfare Committee of the Senate, the chairman and  
2 minority chairman of the Judiciary Committee of the House of  
3 Representatives and the chairman and minority chairman of the  
4 Human Services Committee of the House of Representatives.

5 Each report shall:

6 (i) Provide public information regarding the  
7 ~~incidence~~ NUMBER and causes of methadone-related deaths ←  
8 and methadone-related incidents.

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

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

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

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

20 ~~(8)~~ (9) Develop and publish on the department's Internet ←  
21 website a list of meetings for each year.

22 Section 5. Duties of coroner and medical examiner.

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

28 Section 6. Review procedures.

29 The team may review the following information:

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

1 unless otherwise prohibited by Federal or State laws,  
2 regulations or court decisions.

3 (2) Death certificates and birth certificates.

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

8 (4) Medical records from hospitals and other health care  
9 providers.

10 (5) Information and reports made available by the county  
11 children and youth agency in accordance with 23 Pa.C.S. Ch.  
12 63 (relating to child protective services).

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

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

17 (8) EMS records.

18 (9) Traffic fatality reports.

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

20 (11) ~~Licensure facility~~ FACILITY LICENSURE surveys from  
21 the department Bureau of Community Program Licensure and  
22 Certification, Division of Drug and Alcohol Program  
23 Licensure.

24 Section 7. Access to records.

25 (a) Juvenile records.--When deemed necessary for its review,  
26 the team may review and inspect all files and records of the  
27 court relating to a child pursuant to a proceeding under 42  
28 Pa.C.S. Ch. 63 (relating to juvenile matters) in accordance with  
29 42 Pa.C.S. § 6307 (relating to inspection of court files and  
30 records). However, this subsection shall not apply to files and



1 records of the court subject to a child fatality or near  
2 fatality review pursuant to 23 Pa.C.S. Ch. 63 (relating to child  
3 protective services).

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

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

#### 15 Section 8. Confidentiality.

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

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

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

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

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

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

8 (f) Attendance.--Nothing in this act shall prevent the team  
9 from allowing the attendance of a person with information  
10 relevant to a review at a methadone death and incident team  
11 review meeting.

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

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

15 ~~On July 1, 2011, all powers and duties of the Department of~~  
16 ~~Health under this act shall be transferred to the Department of~~  
17 ~~Drug and Alcohol Programs with the same force and effect as if~~  
18 ~~the powers and duties had been granted to the Department of Drug~~  
19 ~~and Alcohol Programs in the first instance.~~

20 ~~Section 10~~ 9. Regulations. ←

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

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

24 This act shall take effect in 90 days.