

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 140** Session of
2011

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BOBACK AND RAVENSTAHL, JANUARY 20, 2011

AS RE-REPORTED FROM COMMITTEE ON HUMAN SERVICES, HOUSE OF
REPRESENTATIVES, AS AMENDED, MARCH 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 "Patient or family advocate." A person who works as a
4 patient or family advocate at a drug and alcohol addiction
5 treatment program or a group of programs.

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

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

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

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

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

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

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

29 (i) ~~Representatives~~ A REPRESENTATIVE from narcotic
30 treatment programs as defined in 28 Pa. Code § 701.1



1 (relating to general definitions).

2 (ii) ~~Representatives~~ A REPRESENTATIVE from a ←
3 licensed drug and alcohol addiction treatment program
4 that is not defined as a narcotic treatment program.

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

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

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

13 (vi) A CORONER OR medical examiner recommended by a ←
14 Statewide association representing COUNTY CORONERS AND ←
15 medical examiners.

16 ~~(vii) A coroner recommended by a Statewide~~ ←
17 ~~association representing county coroners.~~

18 ~~(viii)~~ (VII) A member of the public. ←

19 ~~(ix)~~ (VIII) A patient or family advocate. ←

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

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

27 Section 4. Team duties.

28 The team shall:

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

1 related incidents.

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

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

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

10 (i) Promulgated by the department as regulations.

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

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

19 (6) Develop IN CONSULTATION WITH THE CORONERS AND ←
20 MEDICAL EXAMINERS a model form for county coroners and
21 medical examiners to use to report and transmit information
22 regarding methadone-related deaths to the team.

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

1 Each report shall:

2 (i) Provide public information regarding the
3 incidence and causes of methadone-related deaths and
4 methadone-related incidents.

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

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

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

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

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

18 Section 5. Duties of coroner and medical examiner.

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

24 Section 6. Review procedures.

25 The team may review the following information:

26 (1) Coroner's reports or postmortem examination records
27 UNLESS OTHERWISE PROHIBITED BY FEDERAL OR STATE LAWS,
28 REGULATIONS OR COURT DECISIONS. ←

29 (2) Death certificates and birth certificates.

30 (3) Law enforcement records and interviews with law

1 enforcement officials as long as the release of such records
2 will not jeopardize an ongoing criminal investigation or
3 proceeding.

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

6 (5) Information and reports made available by the county
7 children and youth agency in accordance with 23 Pa.C.S. Ch.
8 63 (relating to child protective services).

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

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

13 (8) EMS records.

14 (9) Traffic fatality reports.

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

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

19 Section 7. Access to records.

20 (a) Juvenile records.--When deemed necessary for its review,
21 the team may review and inspect all files and records of the
22 court relating to a child pursuant to a proceeding under 42
23 Pa.C.S. Ch. 63 (relating to juvenile matters) in accordance with
24 42 Pa.C.S. § 6307 (relating to inspection of court files and
25 records). However, this subsection shall not apply to files and
26 records of the court subject to a child fatality or near
27 fatality review pursuant to 23 Pa.C.S. Ch. 63 (relating to child
28 protective services).

29 (b) Medical records.--Notwithstanding any other provision of
30 law and consistent with the Health Insurance Portability and

1 Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936)
2 and 42 CFR Pt. 2 (relating to confidentiality of alcohol and
3 drug abuse patient records), health care facilities and health
4 care providers shall provide medical records of an individual
5 under review without the authorization of a person of interest
6 to the team for purposes of review under this act.

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

10 Section 8. Confidentiality.

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

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

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

24 (d) Discovery.--The proceedings, deliberations and records
25 of the team are privileged and confidential and shall not be
26 subject to THE ACT OF FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN AS
27 THE RIGHT-TO-KNOW LAW, discovery, subpoena or introduction into
28 evidence in any civil or criminal action.

29 (e) Meetings.--Meetings of the team at which a specific
30 death is discussed shall be closed to the public and shall not



1 be subject to the provisions of 65 Pa.C.S. Ch. 7 (relating to
2 open meetings).

3 (f) Attendance.--Nothing in this act shall prevent the team
4 from allowing the attendance of a person with information
5 relevant to a review at a methadone death and incident team
6 review meeting.

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

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

10 On July 1, 2011, all powers and duties of the Department of
11 Health under this act shall be transferred to the Department of
12 Drug and Alcohol Programs with the same force and effect as if
13 the powers and duties had been granted to the Department of Drug
14 and Alcohol Programs in the first instance.

15 Section 10. Regulations.

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

18 Section 11. Effective date.

19 This act shall take effect in 90 days.