PRINTER'S NO. 4285

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2727 Session of 2018

INTRODUCED BY HEFFLEY, BOBACK, MILLARD, READSHAW, CHARLTON AND TOEPEL, OCTOBER 17, 2018

REFERRED TO COMMITTEE ON HEALTH, OCTOBER 17, 2018

AN ACT

Providing for the warm hand-off of overdose survivors to addiction treatment, for a comprehensive warm hand-off initiative; establishing the Warm Hand-Off Initiative Grant Program; providing for consents and for immunity; establishing the Overdose Recovery Task Force; and, providing for overdose stabilization and warm hand-off centers, for rules and regulations and for annual report.

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 Warm Hand-Off of Overdose Survivors to Treatment Act.

Section 2. Legislative findings.

The General Assembly finds and declares as follows:

(1) In 2017, 72,000 Americans died of drug overdoses, quadrupling the number of fatal overdoses that occurred in the year 2000 and making today's opioid epidemic the worst epidemic in 100 years.

(2) First responders, including emergency medical services providers, firefighters, law enforcement officers,

social workers, members of the recovery community and family members, have heroically escalated their lifesaving overdose reversal efforts, all resulting in many more lives saved and many more overdose survivors entering the emergency health care systems.

(3) First responders are reporting that many whose overdoses are reversed are overdosing repeatedly, indicating that most overdose survivors are not being successfully transitioned to treatment and recovery support services, placing themselves at grave risk of death, and causing extraordinary strain and suffering to their families and communities, including first responder and health care system services.

(4) It is urgent that every effort be made to successfully transition overdose survivors to treatment and recovery support services, based on an individualized assessment and application of clinical placement criteria.

Section 3. Purpose.

The purpose of this act is to:

(1) Ensure that effective practices are used by emergency medical services providers so that overdose victims are medically stabilized.

(2) Ensure that emergency medical services protocols are used by emergency medical services providers and emergency departments so that stabilized overdose survivors are successfully transferred to appropriate treatment and recovery support services, as determined by an individualized treatment plan based on an assessment and clinical placement criteria.

(3) Ensure that the Commonwealth works with all relevant

stakeholders to develop a network of overdose stabilization and warm hand-off centers where emergency medical service providers can directly transport overdose survivors for medical stabilization, detoxification, assessment, referral and direct placement to individualized treatment and recovery support services.

(4) Ensure that the Commonwealth works with all relevant stakeholders to ensure that the full continuum of addiction treatment and recovery support services is available and coordinated in order to facilitate each overdose survivor's long-term individual process of recovery.

Section 4. 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.

"Detoxification facility." A facility licensed by the department to engage in the process whereby an alcohol-intoxicated, drug-intoxicated, alcohol-dependent or drug-dependent individual is assisted through the period of time to eliminate, by metabolic or other means, the intoxicating alcohol or other drugs, alcohol and other drug dependency factors or alcohol in combination with drugs as determined by a licensed physician, while keeping the physiological risk to the patient at a minimum.

"Drug." The following:

(1) An article recognized in the official United States Pharmacopeia, official Homeopathic Pharmacopeia of the United States, official National Formulary or any supplement of

those publications.

(2) An article intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals.

(3) An article, other than food, intended to affect the structure or any function of the body of a human or animal.

(4) An article intended for use as a component of any article specified in paragraph (1), (2) or (3). The term does not include devices or their components, parts or accessories.

"Emergency department." A hospital emergency department, a free-standing emergency department or a health clinic where the clinic carries out emergency department functions.

"Emergency department personnel." A physician, physician's assistant, nurse, paramedic, medical assistant, nurse aide and other health care professional working in an emergency department.

"Emergency medical services provider." As defined in 35 Pa.C.S. § 8103 (relating to definitions).

"Intervention services." Services provided by an individual with training and knowledge about the system of substance use disorder treatment options available in the local community and who has specific expertise in interventions with overdose survivors through a process where the substance user is encouraged to accept help.

"Overdose." Injury to the body that happens when a drug is taken in excessive amounts, which can be fatal or nonfatal.

"Recovery support services." Informational, emotional and intentional support, including, but not limited to:

(1) Developing a one-on-one relationship in which a peer

leader with recovery experience encourages, motivates and supports a peer in recovery.

(2) Connecting the peer with professional and nonprofessional services and resources available in the community.

(3) Facilitating or leading recovery-oriented group activities, including support groups and educational activities.

(4) Helping peers make new friends and build healthy social networks through emotional, instrumental, informational and affiliation types of peer support.

"Substance use disorder treatment provider." A substance use disorder facility or treatment program that is licensed by the Commonwealth to provide comprehensive alcohol or other drug addiction treatment and recovery support services, with or without the support of addiction medications, on a hospital, nonhospital residential or outpatient basis. The term shall include a physician with expertise in providing or coordinating access to comprehensive detoxification, medication, treatment and long-term recovery support services.

"Task force." The Overdose Recovery Task Force established under section 8.

"Treatment." Substance use disorder treatment for alcohol or other drug addiction with a substance use disorder treatment provider in accordance with an individualized assessment and clinical placement criteria.

"Warm hand-off." The direct referral and transfer of an overdose survivor immediately after medical stabilization to:

(1) a licensed detoxification facility or other medical facility for detoxification; or

(2) to a substance use disorder treatment provider, with treatment matched to the individual's clinical needs, based on a biopsychosocial assessment and application of clinical placement criteria and coordinated with recovery support services. The term includes face-to-face or other follow-up contact with recent overdose survivors by first responders and individuals providing intervention services to encourage entry into treatment and the provision of harm reduction services to overdose survivors who persistently refuse referral and transfer to detoxification and treatment.

Section 5. Comprehensive warm hand-off initiative.

(a) Development.--The department shall collaborate with the Department of Health and other appropriate State and local agencies to develop a warm hand-off initiative to medically stabilize overdose survivors and directly transfer the overdose survivors to a detoxification facility, or other medical facility, for detoxification or to a substance use disorder treatment provider for recovery support services and a course of treatment and recovery support, in accordance with an individualized assessment and application of clinical placement criteria, within one year of the effective date of this section. The warm hand-off initiative shall include, but not be limited to, the following:

(1) Partnerships between the department, local administrators, regional administrators and emergency departments as follows:

(i) The department shall direct its local administrators and regional administrators to establish partnerships with all emergency departments in their respective localities and to assist those emergency

departments to implement warm hand-off procedures for overdose survivors. Assistance may include, but not be limited to, working with emergency departments to ensure that intervention services are available in a timely fashion.

(ii) Owners and operators of emergency departments shall take reasonable steps to train and credential any individuals providing intervention services, using the facility's established credentialing process for staff and vendors providing care, in order to facilitate unhindered communication between the individual providing intervention services and the overdose survivor.

(iii) The local administrators and regional administrators shall regularly assess the network of available detoxification facilities, medical facilities providing detoxification services, substance use treatment providers and recovery support services and communicate the findings of the assessment information to all individuals providing intervention services for overdose survivors, so that a backlog of referrals does not occur.

(iv) The local administrators and regional administrators shall regularly assess the network of services that address the needs of the families of overdose survivors and shall work with emergency departments to ensure that appropriate mechanisms are in place to connect those families to needed services.

(2) Prioritizing overdose survivors for substance use disorder treatment as follows:

(i) The department shall direct its local

administrators and regional administrators to include overdose survivors as one of its prioritized populations for Medicaid and Federal Substance Abuse Prevention and Treatment Block Grant (SAPTBG) funding, in accordance with individualized assessments and clinical placement criteria.

(ii) The department shall work with its local administrators and regional administrators and with emergency medical services providers to gather the following data, which shall be included in the patient care reports and published and annually updated on the department's publicly accessible Internet website:

(A) The number of individuals treated by emergency medical services providers for overdoses.

(B) Levels of care and lengths of stay of overdose survivors in Medicaid facilities and Federal SAPTBG-funded treatment provider facilities.

(C) The number of Medicaid-funded and Federal SAPTBG-funded overdose survivors in treatment who received a lower level of care or shorter length of stay than determined necessary by the physician or the treatment provider using the required placement criteria.

(D) Of the individuals identified in clause (C), the number who received a lower level of care or shorter length of stay in treatment than determined necessary due to lack of funding, patients leaving against medical advice and any other reasons identified by the department.

(E) Any other trends or observations deemed

significant by the department or its local administrators and regional administrators, which may include possible correlation in variations of the level of care and lengths of stay in treatment, with geographic region, behavioral health managed care organization, treatment program and other factors considered.

(3) Training in effective warm hand-off protocols for emergency medical services personnel as follows:

(i) The Department of Health, in collaboration with the department, shall develop warm hand-off emergency medical service protocols for emergency medical services providers.

(ii) The curriculum required under subparagraph (i) shall include:

(A) The most effective protocols to successfully transport overdose survivors for medical stabilization to emergency departments or, where available, to overdose stabilization and warm hand-off centers, as created by this act and approved by the Bureau of Emergency Medical Services of the Department of Health.

(B) Address the elements of addiction, stigma, treatment referral, recommended safety procedures to limit first responder exposure to the drugs involved and effective strategies for immediate and expeditious transport of the overdose survivor after administration of an opioid overdose reversal drug in order to maximize the likelihood of successful transport of patients.

(C) Where an appropriate State or local agency authorizes emergency medical services providers to medically stabilize overdose survivors without transportation to an emergency department or engages emergency medical services providers to participate in face-to-face or other follow-up contact with recent overdose survivors to encourage entry into treatment, the curriculum shall contain effective protocols, including alliance with recovery support services for the follow-up contacts, for successfully performing these activities.

(iii) The curriculum shall be in compliance with the standards of the Commission on Accreditation for Prehospital Continuing Education and be approved by the department and the Bureau of Emergency Medical Services of the Department of Health. The trainings shall be mandatory for all emergency medical services providers and, in accordance with standards provided by the Department of Health in consultation with the department, shall require competency assurance of the necessary cognitive, psychomotor and affective skills upon completion of the program of instruction, as a condition of licensure renewal.

(4) Training in substance use disorders, intervention and referral to treatment for emergency department personnel as follows:

(i) The Department of Health, in collaboration with the department, shall promulgate a training curriculum in the effective warm hand-off to treatment of drug overdose survivors which shall address the basic elements of

addiction, stigma, referral to treatment, recovery support services, the recovery community and effective strategies for interacting with the recently reversed overdose survivor to maximize the likelihood that there will be a successful and immediate warm hand-off to treatment. The curriculum shall also include harm reduction strategies for individuals who decline treatment.

(ii) The curriculum shall be approved by the department and the Department of Health. The trainings shall be mandatory for all emergency department personnel and, in accordance with the standards set forth by the Department of Health in consultation with the department, shall require competency assurance of the necessary cognitive, psychomotor and affective skills upon completion of the program of instruction as a condition of licensure renewal. The training may satisfy the emergency department personnel's patient safety continuing medical education requirements.

(b) Warm Hand-Off Initiative Grant Program.--The following shall apply:

(1) The Warm Hand-Off Initiative Grant Program is established for the purpose of incentivizing the development of successful warm hand-off programs and operations established under this act.

(2) The department may receive gifts, grants and endowments from public or private sources as may be made from time to time, in trust and otherwise, for the use and benefit of the purposes of the Warm Hand-Off Initiative Grant Program and expand the same or any income derived from it according

to the term of the gifts, grants or endowments. In addition, the department shall aggressively pursue all Federal funding, matching funds and foundation funding for the Warm Hand-Off Initiative Grant Program. The money received under this paragraph shall be deposited into a restricted account in the State Treasury. Money in the restricted account shall be appropriated to the department on a continuing basis.

(c) Emergency department implementation.--An emergency department shall:

(1) Within six months of the effective date of this act, the Department of Health shall require, as a condition of licensure for the owner or operation of each emergency department, a written report from each entity that meets the standards required under this act, which shall include, but not be limited to:

(i) A description of the emergency department's warm hand-off procedures.

(ii) Certification from the local administrator or regional administrator for the department of the emergency department's partnership with the departments local administrator or regional administrator to attain the most effective possible warm hand-off outcomes.

(iii) The number of overdose patients:

(A) Treated in the emergency department.

(B) Screened to be in need of treatment.

(C) Successfully transferred to treatment.

(D) Refusing treatment and the reasons given.

(E) Who return to the emergency department on a subsequent occasion.

(iv) The emergency department's action plan to

continue to improve warm hand-off outcomes.

(2) The reporting under this subsection shall be required annually for five years following the effective date of this section and biannually thereafter.

(3) The department and the Department of Health shall develop and publish minimum warm hand-off protocol and reporting requirements for emergency departments.

(d) Eligibility to be a provider and coverage for warm hand-off initiative.--The following shall apply:

(1) The Department of Human Services shall require emergency medical services providers with patient transport capability, emergency departments and personnel working within each of those entities to demonstrate compliance with the requirements of subsections (a)(3) and (4) and (c) in order to be eligible to be a participating provider in the Medicaid network.

(2) The Department of Human Services shall establish and provide reasonable and fair reimbursement rates approved by the department for the services provided for under this act. The rates shall include, but not be limited to, full and fair reimbursement for:

(i) Emergency medical services providers successfully transporting overdose victims for medical stabilization at an emergency department or an overdose stabilization and warm hand-off center.

(ii) Emergency medical services providers successfully medically stabilizing an overdose survivor and successfully transporting the individual to a detoxification facility or overdose stabilization and warm hand-off center.

(iii) Follow-up contact with recent overdose survivors by emergency medical services providers or others engaging in intervention services to encourage and facilitate entry into treatment.

(iv) Intervention services and warm hand-off services.

(v) Case management providing support, guidance and navigation of the treatment and recovery systems.

(3) The reimbursement rates shall take into account the providers' costs in meeting the training, data reporting and other requirements of this act and shall be designed to incentivize and reward positive outcomes for successful medical stabilization of overdose victims and successful assessment and transfer of these overdose victims to clinically appropriate detoxification and treatment programs.

(e) Private health insurance coverage for warm hand-off initiative.--The following shall apply:

(1) The Insurance Department, in consultation with the department, shall require all health insurers providing coverage in this Commonwealth to establish and provide reasonable and fair reimbursement rates. The rates shall include, but not be limited to, full and fair reimbursement for:

(i) Emergency medical services successfully transporting overdose victims for medical stabilization at an emergency department or an overdose stabilization and warm hand-off center.

(ii) Emergency medical services successfully medically stabilizing an overdose survivor and successfully transporting the individual to a

detoxification facility or overdose stabilization and warm hand-off center.

(iii) Follow-up contact with recent overdose survivors by emergency medical services personnel or intervention specialists to encourage and facilitate entry into treatment.

(iv) Intervention and warm hand-off services.

(v) Case management providing support, guidance and navigation of the treatment and recovery systems.

(2) The reimbursement rates shall take into account the providers' costs in meeting the training, data reporting and other requirements of this act, and shall be designed to incentivize and reward positive outcomes for successful medical stabilization of overdose victims and successful assessment and transfer of these overdose victims to clinically appropriate detoxification and treatment programs.

(3) The Insurance Department shall require all health insurers providing coverage in this Commonwealth to eliminate preauthorization requirements for treatment in instances where an overdose survivor is transported to treatment under this act.

Section 6. Consents.

(a) General rule.--The attending physician in an emergency department, or a physician's designee, shall make reasonable efforts to obtain a patient's signed consent to disclose information about the patient's drug overdose to family members or others involved in the patient's health care.

(b) Exception.--If the consent cannot practicably be provided because of the patient's incapacity or a serious and imminent threat to a patient's health or safety, the physician,

or physician's designee, may disclose information about a patient's drug overdose in compliance with applicable privacy and confidentially laws and regulations, including:

(1) The Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936).

(2) 42 C.F.R. Part 2 (relating to confidentiality of substance use disorder patient records).

(3) 45 C.F.R. Part 160 (relating to general administrative requirements).

(4) 45 C.F.R. Part 164 (relating to security and privacy).

(5) 42 U.S.C. § 290dd-2 (relating to confidentiality of records).

(6) Any relevant State law related to the privacy, confidentially and disclosure of protected health information.

(7) Any policies or regulations of the department governing the care of protection of client information.

Section 7. Immunity.

(a) Emergency medical services agencies and providers.--Absent evidence of a malicious intent to cause harm, no emergency medical services agency or emergency medical services provider may be held liable for medically stabilizing, or attempting to medically stabilize, an overdose victim or for transporting or attempting to transport an overdose victim for medical stabilization.

(b) Emergency department personnel.--Absent evidence of a malicious intent to cause harm, no emergency department personnel providing intervention services or recovery support services may be held liable for their efforts to have overdose

survivors properly assessed and directly transferred to clinically appropriate detoxification facilities, to treatment or to recovery support services.

Section 8. Overdose Recovery Task Force and overdose stabilization and warm hand-off centers.

(a) Establishment.--The Overdose Recovery Task Force is established. The task force shall consist of the following members:

(1) The Secretary of Drug and Alcohol Programs or a designee.

(2) The Secretary of Health or a designee.

(3) The Secretary of Human Services or a designee.

(4) The Secretary of Corrections or a designee.

(5) A representative from the following professional associations in this Commonwealth:

(i) Law enforcement.

(ii) Fire departments.

(iii) Emergency medical services.

(iv) Behavioral health providers.

(v) Hospital administration.

(vi) Addiction treatment providers.

(vii) Certified peer recovery specialists.

(viii) Recovery organizations.

(b) Purpose.--

(1) The initial purpose of the task force shall be to develop and implement overdose stabilization and warm hand-off centers. Overdose stabilization and warm hand-off centers shall be staffed locations that can medically oversee the stabilization of overdose survivors, begin detoxification, engage survivors with intervention specialists, complete full

addiction assessment and referral and connect and refer survivors to all modalities and levels of treatment, depending on the survivor's individual clinical needs.

(2) The overdose stabilization and warm hand-off centers shall address the needs of survivors' families and utilize them in the engagement and treatment of the survivors, as appropriate.

(c) Expansion of current services.--The task force may explore mechanisms to expand, where feasible, the function of currently existing crisis health care facilities so that they can serve as overdose stabilization and warm hand-off centers, in addition to their current functions.

(d) Development of overdose stabilization and warm hand-off centers.--The development and implementation of overdose stabilization and warm hand-off centers undertaken by the task force shall include:

(1) Identifying the areas that will benefit most from placement of overdose stabilization and warm hand-off centers through an analysis of population density and number of overdose deaths.

(2) Creating the design, staffing structure operation and operational protocols of the overdose stabilization and warm hand-off centers, which may include consideration of existing detoxification facilities with expanded capacity and functions.

(3) Expanding the functions of currently existing crisis health care facilities so that they can also serve as overdose stabilization and warm hand-off centers.

(4) Identifying funding sources for overdose stabilization and warm hand-off centers.

(5) Establishing a new licensing category to cover the overdose stabilization and warm hand-off centers.

(e) Requirements.--The operations of each overdose stabilization and warm hand-off center shall include, at a minimum, the following:

(1) The capacity to safely medically stabilize and manage the chronic non-life threatening medical needs of overdose survivors.

(2) The ability to identify overdose survivors whose medical situations are sufficiently complex to require immediate transportation to an emergency department, based upon developed protocols.

(3) State licensure as a medical, nonhospital residential or hospital detoxification facility.

(4) Intervention services conducted by staff with specific expertise in therapeutically engaging individuals who have just survived an overdose.

(5) Treatment assessments with physicians or other clinicians with certified expertise in undertaking drug and alcohol assessments and applying appropriate clinical placement criteria.

(6) Working relationships with treatment programs of all modalities, including programs that provide family preservation services, in the reasonable vicinity of the overdose stabilization and warm hand-off center.

(7) Development of protocols and referral agreements to govern the transfer of patients to and from emergency departments and treatment programs.

(8) Access to direct transportation from the overdose stabilization and warm hand-off center to treatment programs.

(f) Evaluation.--The task force shall periodically evaluate the performance and effectiveness of the overdose stabilization and warm hand-off centers and gather and make recommendations for continuous quality improvements.

(g) Sections 6 and 7(b) shall apply to overdose stabilization and warm hand-off centers.

Section 9. Rules and regulations.

The department, Department of Health and Department of Human Services shall promulgate rules and regulations necessary to implement their responsibilities under this act.

Section 10. Annual report.

(a) Provision.--The department, in consultation with the Department of Health, shall provide an annual report to the General Assembly documenting the following:

(1) Compliance with the requirements of this act.

(2) The number of overdose survivors successfully being transferred to and engaged in treatment.

(3) The number of warm hand-off centers in operation.

(4) The total number of overdose victims each warm hand-off center received.

(5) The total amount of funds awarded from the Warm Hand-Off Initiative Grant Program in the previous year and the amount each grantee received.

(b) Publication.--The annual report shall be published on the publicly accessible Internet websites of the department and the Department of Health.

Section 11. Severability.

The provisions of this act are severable. If any provision of this act or application of this act to any individual or circumstance is held invalid, the invalidity shall not affect

other provisions or applications of this act which can be given effect without the invalid provisions or applications.

Section 12. Effective date.

This act shall take effect in 60 days.