

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 941 Session of 2023

INTRODUCED BY BROOKS, YAW, TARTAGLIONE, KANE, BREWSTER, DILLON, COSTA AND CAPPELLETTI, SEPTEMBER 28, 2023

SENATOR BROOKS, HEALTH AND HUMAN SERVICES, AS AMENDED, OCTOBER 3, 2023

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
2 "An act providing for and reorganizing the conduct of the
3 executive and administrative work of the Commonwealth by the
4 Executive Department thereof and the administrative
5 departments, boards, commissions, and officers thereof,
6 including the boards of trustees of State Normal Schools, or
7 Teachers Colleges; abolishing, creating, reorganizing or
8 authorizing the reorganization of certain administrative
9 departments, boards, and commissions; defining the powers and
10 duties of the Governor and other executive and administrative
11 officers, and of the several administrative departments,
12 boards, commissions, and officers; fixing the salaries of the
13 Governor, Lieutenant Governor, and certain other executive
14 and administrative officers; providing for the appointment of
15 certain administrative officers, and of all deputies and
16 other assistants and employes in certain departments, boards,
17 and commissions; providing for judicial administration; and
18 prescribing the manner in which the number and compensation
19 of the deputies and all other assistants and employes of
20 certain departments, boards and commissions shall be
21 determined," in powers and duties of the Department of Drug
22 and Alcohol Programs, further providing for powers and duties
23 and providing for regulatory flexibility during opioid
24 epidemic.

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

27 Section 1. Section 2301-A(7) of the act of April 9, 1929
28 (P.L.177, No.175), known as The Administrative Code of 1929, is

1 amended and the section is amended by adding a paragraph to
2 read:

3 Section 2301-A. Powers and duties.

4 The Department of Drug and Alcohol Programs shall have the
5 power and its duty shall be:

6 * * *

7 (7) [To submit an annual report to the General Assembly
8 which shall specify the actions taken and services provided
9 and funds expended and an evaluation of their effectiveness.
10 The annual report shall also contain the current State plan.
11 The Department of Drug and Alcohol Programs shall submit such
12 additional reports as may be requested by the General
13 Assembly and recommendations to further the prevention,
14 treatment and control of drug and alcohol abuse and
15 dependence.] As follows:

16 (i) To submit an annual report to the General
17 Assembly which shall:

18 (A) Specify the actions taken, services provided
19 and funds expended, including an evaluation of their
20 effectiveness.

21 (B) Contain the current State plan.

22 (C) Contain the most recent quarterly
23 evaluations by the Department of Drug and Alcohol
24 Programs of the information specified under paragraph
25 (8.2) (i).

26 (D) Specify the actions taken in accordance with
27 section 2303-A.

28 (ii) To submit additional reports as requested by
29 the General Assembly and recommendations to further the
30 prevention, treatment and control of drug and alcohol

1 abuse and dependence.

2 * * *

3 (8.2) To support the following:

4 (i) Substance use disorder treatment providers and
5 their workforce by evaluating, on a quarterly basis:

6 (A) Barriers to entry into the workforce,
7 including years of experience in the field of
8 substance use disorder treatment, counseling, therapy
9 or other functions beyond the qualifications
10 specified under 28 Pa. Code Ch. 704 (relating to
11 staffing requirements for drug and alcohol treatment
12 activities).

13 (B) Efforts to address the barriers specified
14 under clause (A).

15 (ii) Individuals in recovery seeking to work in the
16 field of addiction treatment and recovery as provided in
17 paragraph (1)(xiv).

18 * * *

19 Section 2. The act is amended by adding a section to read:

20 Section 2303-A. Regulatory flexibility during opioid epidemic.

21 (a) Suspension.--The following regulations are suspended
22 during an opioid epidemic, as provided under subsection (c):

23 (1) 28 Pa. Code § 704.7(b)(1) (relating to
24 qualifications for the position of counselor) insofar as the
25 regulation precludes an individual licensed in this
26 Commonwealth as any of the following from serving as a
27 counselor:

28 (i) A certified registered nurse practitioner under
29 the act of May 22, 1951 (P.L.317, No.69), known as The
30 Professional Nursing Law.

1 (ii) A physician assistant under the act of October
2 5, 1978 (P.L.1109, No.261), known as the Osteopathic
3 Medical Practice Act, or the act of December 20, 1985
4 (P.L.457, No.112), known as the Medical Practice Act of
5 1985.

6 (2) 28 Pa. Code § 704.7(b)(3), (4) and (5) insofar as
7 the regulation requires a counselor to have a certain amount
8 of years of clinical experience in a health or human service
9 agency, if the counselor meets the postsecondary degree
10 requirements specified under 28 Pa. Code § 704.7(b)(3), (4)
11 or (5).

12 (3) 28 Pa. Code § 704.8(a) (relating to qualifications
13 for the position of counselor assistant) insofar as the
14 regulation prohibits a counselor supervisor or counselor to
15 supervise more than one counselor assistant. In such a case,
16 the counselor supervisor or counselor may not supervise more
17 than three counselor assistants.

18 (4) 28 Pa. Code § 704.12(a)(1) (relating to full-time
19 equivalent (FTE) maximum client/staff and client/counselor
20 ratios) insofar as the regulation prohibits:

21 (i) One full-time equivalent primary care staff
22 person to be available for every ~~14~~ 10 clients during <--
23 primary care hours.

24 (ii) An individual licensed in this Commonwealth as
25 any of the following from fulfilling the on-call
26 physician requirement:

27 (A) A certified registered nurse practitioner
28 under The Professional Nursing Law.

29 (B) A physician assistant under the Osteopathic
30 Medical Practice Act or the Medical Practice Act of

1 1985.

2 (5) 28 Pa. Code § 704.12(a)(3)(i) insofar as the
3 regulation prohibits one full-time equivalent counselor to be
4 available for every 12 adult clients.

5 (6) 28 Pa. Code § 704.12(a)(6) insofar as the regulation
6 prohibits one full-time equivalent counselor caseload from
7 exceeding 50 active clients who have been in treatment for
8 fewer than two years. Each client who has been in treatment
9 for two years or more shall not count toward the outpatient
10 caseload per counselor.

11 (7) 28 Pa. Code § 704.12(d) insofar as the regulation
12 prohibits the suspension of regulations under this
13 subsection.

14 (8) 28 PA. CODE § 715.8(1)(VI) (RELATING TO PSYCHOSOCIAL <--
15 STAFFING) INsofar AS THE REGULATION PROHIBITS ONE FULL-TIME
16 EQUIVALENT COUNSELOR CASELOAD FROM EXCEEDING 50 ACTIVE
17 CLIENTS WHO HAVE BEEN IN TREATMENT FOR FEWER THAN TWO YEARS.
18 EACH CLIENT WHO HAS BEEN IN TREATMENT FOR TWO YEARS OR MORE
19 SHALL NOT COUNT TOWARD THE OUTPATIENT CASELOAD PER COUNSELOR.

20 (b) Notification.--A project director shall notify the
21 Department of Drug and Alcohol Programs in writing or by email
22 of the intent to utilize the regulatory flexibility under this
23 section.

24 (c) Applicability.--

25 (1) This section shall apply during the existence of an
26 opioid epidemic. For purposes of this section, an opioid
27 epidemic shall be deemed to exist beginning on the effective
28 date of this section.

29 (2) This section shall not apply when an opioid epidemic
30 does not exist.

1 (3) Except for the opioid epidemic deemed to exist
2 beginning on the effective date of this section, the
3 Secretary of Drug and Alcohol Programs shall, upon
4 determining that an opioid epidemic does or does not exist,
5 transmit notice to the Legislative Reference Bureau for
6 publication in the next available issue of the Pennsylvania
7 Bulletin. The periods of applicability of this section shall
8 begin or end upon publication of the notice in the
9 Pennsylvania Bulletin.

10 (d) Definitions.--As used in this section, the following
11 words and phrases shall have the meanings given to them in this
12 subsection unless the context clearly indicates otherwise:

13 "Opioid epidemic." A public health crisis in which illicit
14 opioid use and abuse results in more than 1,000 confirmed
15 overdose deaths from an opioid in a calendar year over at least
16 three consecutive years in this Commonwealth, as the number of
17 deaths are reported by the Department of Health in the Coroner
18 and Medical Examiner Onboarding and Drug Overdose Death Monthly
19 Surveillance Report.

20 "Project director." The administrator of the treatment
21 project who is responsible for the overall management of the
22 project and staff and who meets the education and experience
23 requirements under 28 Pa. Code Ch. 704 (relating to staffing
24 requirements for drug and alcohol treatment activities).

25 Section 3. This act shall take effect immediately.