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OFFICE OF THE  
SECRETARY

MURIEL BOWSER  
MAYOR

JUN 26 2017

The Honorable Phil Mendelson  
Chair, Council of the District of Columbia  
John A. Wilson Building  
1350 Pennsylvania Avenue, N.W., Suite 504  
Washington, D.C. 20004

Dear Chairman Mendelson:

Enclosed for consideration and enactment by the Council is the "Health Care Reporting Amendment Act of 2017." If enacted, the proposed legislation will require a health professional employer to submit a written report, within 10 days, of any action taken against a health professional due to professional incompetence, mental or physical impairment, and unprofessional, illegal or unethical conduct. In addition, a health professional will be required to report disciplinary action taken against him or her in another state and any malpractice suit filed against him or her. If the reporting requirement is not complied with, the Mayor may impose a fine, not to exceed \$10,000 per incident, on the health professional employer or health professional. In addition, the legislation will repeal D.C. Official Code § 3-1205.13a that provides a separate reporting requirement and penalty for physicians.

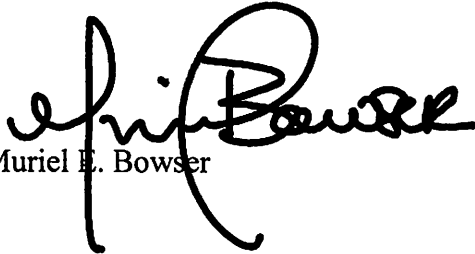
The Department of Health has noted the fact that, at times, health care employers terminate the employment of health professionals for professional misconduct or unsafe practice without notifying the appropriate health profession board. There have been cases where health professionals' employment has been terminated by one employer, the termination not reported to a board, and the health professional rehired by another employer, thus perpetuating a pattern of unsafe practice.

This legislation, if enacted, will amend D.C. Official Code § 44-508 entitled "Reporting to licensing authority." D.C. Official Code § 44-508, as currently written, contain no time frame in which an employer is required to report action taken against a health professional, to a governmental board, commission, or other authority. Neither are there any sanctions contained in the law for failing to report. By establishing a time period in which to report and imposing a financial sanction for failing to do so, employers and health professionals will have more of an incentive to comply with the law. Once the appropriate board is notified, health professionals will be removed from practice or be required to undergo the rehabilitation they need, if practicable. Ultimately, the public is protected.

Currently, at least four other states impose monetary sanctions for non-compliance with the reporting requirement. California fines up to \$10,000. Massachusetts imposes a maximum fine of \$10,000. Virginia fines up to \$25,000 and Florida imposes fines varying from \$5,000 to \$250,000.

I urge the Council to take prompt and favorable action on the enclosed legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Muriel E. Bowser". The signature is written in a cursive, flowing style with a large initial "M" and "B".

Muriel E. Bowser



Chairman Phil Mendelson  
at the request of the Mayor

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10 A BILL

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14 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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18 Chairman Phil Mendelson, at the request of the Mayor, introduced the following bill,  
19 which was referred to the Committee on \_\_\_\_\_.

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21 To amend the Health-Care and Community Residence Facility, Hospice and Home Care  
22 License Act of 1983 to require a health professional to submit to a board, commission or  
23 authority responsible for licensing, registering or certifying the health professional within  
24 10 days, notice of a malpractice judgment, confidential settlement, or that he or she has  
25 been convicted of a crime; to require a health professional employer to submit notice to a  
26 board, commission or authority responsible for licensing, registering, or certifying the  
27 health professional information regarding sanctions imposed on an employee, within 10  
28 days after the sanction; and to authorize the Mayor to fine a health professional or health  
29 professional employer up to \$10,000 for failure to comply with the reporting requirement.

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31 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

32 That this act may be cited as the "Health Care Reporting Amendment Act of 2017."

33 Sec. 2. The Health-Care and Community Residence Facility, Hospice and Home Care  
34 Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-  
35 501 *et seq.*) is amended as follows:

36 (a) Section 9 (D.C. Official Code § 44-508) is amended as follows:

37 (1) Subsection (a) is amended to read as follows:

1           “(a)(1) A health professional shall submit a report notifying the board, commission, or  
2 authority responsible for licensing, registering, or certifying the health professional within 10  
3 days after:

4                           “(A) The health professional has:

5   “(i) Been named in a malpractice suit and received notice of a  
6 judgment against him or her in that suit;

7   “(ii) Received notice of a confidential settlement of a malpractice  
8 claim to be paid by the health professional, an insurer, or other entity on behalf of the health  
9 professional; or

10   “(iii) Been convicted of a crime; or

11   “(B) The health professional obtains knowledge that a health-care  
12 licensing authority of another state has taken disciplinary action against him or her.”.

13                           “(2) Consistent with paragraph (1) of this subsection, nothing in a confidential  
14 settlement agreement between a health professional and another person shall operate to prevent  
15 the parties to that agreement from filing a complaint with the board, commission, or authority  
16 responsible for licensing, registering or certifying the health professional, or from testifying in  
17 any investigation conducted by the board, commission, or authority responsible for licensing,  
18 registering, or certifying the health professional.”.

19                           (2) A new subsection (a-1) is added to read as follows:

20   “(a-1) A health professional employer shall submit a report notifying the board,  
21 commission, or authority responsible for licensing, registering, or certifying a health professional  
22 within 10 days after:

23   “(1)(A) The health professional employer has:

1                                   “(i) Reduced, suspended, revoked, or not renewed the health  
2 professional’s clinical privileges;

3                                   “(ii) Involuntarily terminated or restricted the health professional’s  
4 employment or staff membership; or

5                                   “(iii) Asked the health professional not to return to employment  
6 with the health professional employer

7                                   “(B) For reasons of:

8                                   “(i) Unprofessional conduct by the health professional;

9                                   “(ii) Illegal conduct by the health professional;

10                                   “(iii) Unethical conduct by the health professional;

11                                   “(iv) Professional incompetence of the health professional; or

12                                   “(v) A mental or physical impairment that results in the health  
13 professional being unable to perform his or her occupation in a safe and effective manner; or

14                                   “(2) The health professional has voluntarily resigned, or has been asked by the  
15 health professional employer to resign, while being investigated by the health professional  
16 employer for:

17                                   “(A) Unprofessional conduct;

18                                   “(B) Illegal conduct;

19                                   “(C) Unethical conduct;

20                                   “(D) Professional incompetence; or

21                                   “(E) A mental or physical impairment that results in the health  
22 professional being unable to perform his or her occupation in a safe and effective manner.”.

23                                   (3) Subsection (b) is amended as follows:

1 (A) Strike the phrase “subsection (a)” wherever it appears in this section  
2 and insert the phrase “subsection (a-1)” in its place.

3 (B) Strike the phrase “facility or agency” and insert the phrase “health  
4 professional employer” in its place.

5 (3) New subsections (c), (d), and (e) are added to read as follows:

6 “(c) The report required by subsections (a) and (a-1) of this section shall be sent in the  
7 United States mail by registered or certified mail, with return receipt requested, or sent by  
8 courier service, commercial carrier, or personal service.

9 “(d) In computing the 10-day reporting period in subsections (a) and (a-1) of this section,  
10 the day of the act or event that gave rise to the requirement to send the report shall not be  
11 counted. The last day of the 10-day period shall be counted unless it is a Saturday, Sunday, legal  
12 holiday, or day on which the Department of Health is officially closed, in which event the 10-day  
13 period shall continue until the next day that is not a Saturday, Sunday, legal holiday, or day on  
14 which the Department of Health is officially closed.

15 “(e) When used in this section:

16 “(1) The term “health professional” means a person licensed, registered, certified,  
17 or permitted to practice a health occupation regulated by a licensing board in the District.

18 “(2) The term “health professional employer” means any entity in the District of  
19 Columbia that employs health professionals, including a facility, agency, assisted living  
20 residence, private office, health care provider, or group home.

21 “(3) The terms “facility” and “agency” mean a facility or agency referred to in  
22 section 2(c) of the Health-Care and Community Residence Facility, Hospice and Home Care

1 Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-  
2 501(c)).

3 “(4) The term “assisted living residence” means that which is referred to in  
4 section 201(4) of the Assisted Living Residence Act of 2000, effective June 24, 2000 (D.C. Law  
5 13-127; D.C. Official Code § 44-102.01(4)).

6 “(5) The term “professional incompetence” means a health professional’s  
7 unfitness to continue in the person’s health profession, or to provide one or more services  
8 ordinarily provided as part of the profession, as demonstrated by:

9 “(A) A lack of knowledge or skill or judgment; or

10 “(B) Disregard for the welfare of a patient or client.”.

11 (b) Section 10 (D.C. Official Code § 44-509) is amended by inserting a new subsection  
12 (e)(1-A) to read as follows:

13 “(1-A)(A) The Mayor may impose a civil fine not to exceed \$10,000 per incident  
14 on a health professional or health professional employer that fails to comply with the reporting  
15 requirements set forth in section 9.

16 “(B) In a proceeding to determine whether a health professional or health  
17 professional employer has complied with the requirements of section 9, or in a proceeding  
18 challenging the imposition of a fine for failure to comply with the requirements of section 9, the  
19 health professional or health professional employer shall have the burden of proving that the  
20 report was sent to the board, commission, or authority through one of the methods of service  
21 identified in subsection (c) of this section, if the board, commission, or authority states in good  
22 faith that it has not received the report.”.

1           Sec. 3. Section 513a of the District of Columbia Health Occupations Revision Act of  
2 1985, effective March 25, 1986 (D.C. Law 6-99, D.C. Official Code § 3-1205.13a) is repealed.

3           Sec. 4. Fiscal impact statement.

4           The Council adopts the fiscal impact statement in the committee report as the fiscal  
5 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
6 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

7           Sec. 5. Effective date.

8           This act shall take effect following approval by the Mayor (or in the event of veto by the  
9 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
10 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
11 24, 1973 (87 Stat. 813 (D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
12 Columbia Register.




Government of the District of Columbia  
Office of the Chief Financial Officer



Jeffrey S. DeWitt  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Jeffrey S. DeWitt  
Chief Financial Officer 

**DATE:** August 3, 2016

**SUBJECT:** Fiscal Impact Statement – Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983 and, Health Professional and Health-Care Provider Notice Requirements Amendment Act of 2016

**REFERENCE:** Draft Bill sent to the Office of Revenue Analysis on July 29, 2016

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**Conclusion**

Funds are sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill.

**Background**

The bill requires<sup>1</sup> health care providers<sup>2</sup> to notify the Department of Health (DOH) within 10 days of taking take action against a health professional because of professional incompetence; mental or physical impairment; or unprofessional, illegal, or unethical conduct. If the health care provider fails to notify DOH within 10 days, DOH may fine them up to \$10,000.

The legislation also repeals D.C. Official Code § 3-1205.13a, which provides a separate reporting requirement and penalty for physicians.

**Financial Plan Impact**

Funds are sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. DOH has sufficient resources to receive reports of misconduct and collect any fines it imposes, if any. While it is possible the fines would bring revenue in to DOH, the agency hopes that health care providers will fully comply with the legislation and avoid the fines.

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<sup>1</sup> By amending D.C. Official Code § 44-508.

<sup>2</sup> And other organizations that employ or use health care professionals.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of the Attorney General



ATTORNEY GENERAL  
KARL A. RACINE

Legal Counsel Division

**MEMORANDUM**

**TO:** Lolita S. Alston  
Director  
Office of Legislative Support


**FROM:** Janet M. Robins  
Deputy Attorney General  
Legal Counsel Division

**DATE:** April 28, 2017

**SUBJECT:** Legal Sufficiency Review–Draft “Health Care Reporting Amendment Act of 2017”  
(AE-16-727)

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**This is to Certify that** this Office has reviewed the above-referenced draft legislation and found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5524.

  
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Janet M. Robins