



2018 JUL -6 PM 3:29
OFFICE OF THE
SECRETARY

MURIEL BOWSER
MAYOR

JUL 6 2018

The Honorable Phil Mendelson, Chairman
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W., Suite 504
Washington, D.C. 20004

Dear Chairman Mendelson:

Enclosed for consideration and approval by the Council is emergency, temporary, and permanent legislation to amend the Prescription Drug Monitoring Program Act of 2013 to require the mandatory registration of physician prescribers and dispensers, including new licensees, by December 31, 2018, and the accompanying emergency declaration. The bill would also require the mandatory registration of all other prescribers as part of the first renewal, reactivation, or reinstatement of their professional licenses that follows enactment of the permanent legislation; and would require the Health Occupations Boards to ensure that a prescriber or dispenser is registered with the prescription drug monitoring program before licensing, renewing, reactivating, or reinstating a license.

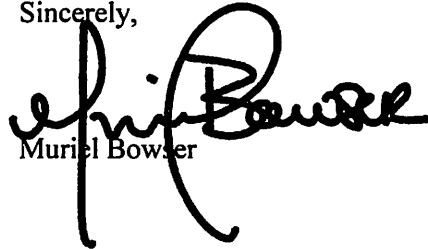
Mandatory registration will increase prescriber awareness of patient use of controlled substances, including opioids, and more quickly identify drug seeking behavior. Additionally, it will help dispensers identify over prescribing and patients receiving controlled substances prescriptions from multiple prescribers. These changes will help prevent the misuse or abuse of controlled substances, including opioids.

This legislation will also authorize the Director to disclose information relevant to a specific investigation of a specific dispenser or specific prescriber, related to controlled substances, to an agent of the Federal Bureau of Investigation with authority to conduct controlled substances related investigations; to prohibit individuals from providing false or misleading information to the Department with the intent to obtain unauthorized access to the Prescription Drug Monitoring Program database or to alter the information contained in the database and to authorize the imposition of sanctions for violating this provision; to authorize the Director to create through rulemaking criteria for indicators of abuse of covered substances and for indications of a possible violation of law or a possible breach of professional standards by a prescriber or dispenser; to authorize the Director to create a method for analysis of data collected by the Program; and to authorize the Director to disclose possible abuse or misuse, possible violation of law, and possible breaches of professional standards by a prescriber or dispenser to the prescriber or dispenser.

Enactment of this legislation is necessary to enable the Department and Board of Pharmacy to appropriately address the opioid crisis and immediately preserve and promote the health, safety and welfare of the public.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Muriel Bowser", written over the printed name. The signature is stylized with a large, looping "M" and a long, sweeping underline.

Muriel Bowser



Chairman Phil Mendelson
at the request of the Mayor

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on a temporary basis, the Prescription Drug Monitoring Program Act of 2013 to require the mandatory registration of prescribers and dispensers, including new licensees, by December 31, 2018, to authorize the Director to disclose information relevant to a specific investigation of a specific patient, dispenser, specific prescriber, related to controlled substances, to an agent of the Federal Bureau of Investigation with authority to conduct controlled substances related investigations, to prohibit individuals from providing false or misleading information to the Department with the intent to obtain unauthorized access to the Prescription Drug Monitoring Program database or to alter the information contained in the database and to authorize the imposition of sanctions for violating this provision, to authorize the Director to create through rulemaking criteria for indicators of abuse of covered substances and for indications of a possible violation of law or a possible breach of professional standards by a prescriber or dispenser, to authorize the Director to create a method for analysis of data collected by the Program, and to authorize the Director to disclose possible abuse or misuse by a patient, and possible violation of law and possible breaches of professional standards by a prescriber or dispenser to the prescriber or dispenser.

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

that this act may be cited as the "Prescription Drug Monitoring Program Temporary Amendment Act of 2018".

Sec. 2. The Prescription Drug Monitoring Program Act of 2013 (D.C. Law 20-66; D.C. Official Code § 48-853.01 *et seq.*) is amended as follows:

(a) A new section 4a (D.C. Official Code § 48-853.03a) is added to read as follows:

1 “Sec. 4a. Registration Requirement for Prescribers and Dispensers.

2 “(a) Any prescriber who is currently licensed, or becomes licensed before
3 December 31, 2018, in the District of Columbia to prescribe a controlled substance or
4 other covered substance in the course of his or her professional practice, and any
5 dispenser who is currently licensed, or becomes licensed before December 31, 2018, in
6 the District of Columbia to dispense a controlled substance or other covered substance to
7 an ultimate user, his or her agent, or owner in the case of animals, shall be registered with
8 the Prescription Drug Monitoring Program by December 31, 2018.”.

9 (b) Section 5 (D.C. Official Code § 48-853.04) is amended by adding a new
10 subsections (b)to read as follows:

11 “(b) No person shall provide false or misleading information to the
12 Department with the intent to obtain unauthorized access to the Prescription Drug
13 Monitoring Program database or to alter the information contained in the database.
14 Violation of this provision shall constitute grounds for the revocation, suspension, or
15 denial of a District of Columbia controlled substances registration; disciplinary action by
16 the relevant health occupations board pursuant to section 514(c) of the District of
17 Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C.
18 Law 6-99; D.C. Official Code § 3-1205.14(c)); and the imposition of civil fines pursuant
19 to section 104 of the Department of Consumer and Regulatory Affairs Civil Infractions
20 Act of 1985, effective October 5, 1985 (D.C. Law 6-42, D.C. Official Code § 2-1801.01
21 *et seq.*).”.

22 (c) Section 6(b)(5) (D.C. Official Code § 48-853.05(b)(5)) is amended to
23 read as follows:

1 “(5) A specific investigation of a specific patient or of a specific
2 dispenser or prescriber to an agent of a federal law-enforcement agency with authority to
3 conduct drug diversion investigations.”.

4 (d) Section 8 (D.C. Official Code § 48-853.07) is amended to read as
5 follows:

6 “(a) The Director may establish through rulemaking:

7 “(1) Criteria for indicators of misuse or abuse of covered substances;

8 “(2) A method for analysis of data collected by the Program using the
9 criteria for indicators of misuse or abuse of covered substances;

10 “(3) Criteria for indications of a possible violation of law or a possible
11 breach of professional standards by a prescriber or dispenser; and

12 “(4) A method for analysis of data collected by the Program using the
13 criteria for indications of a possible violation of law or a possible breach of professional
14 standards by a prescriber or dispenser.

15 “(b) Upon the development of the criteria and data analysis, the Program may
16 review prescription monitoring program data for indications of possible misuse or abuse
17 of a covered prescription drug; and if the Program's review of prescription monitoring
18 data indicates possible misuse or abuse of a covered prescription drug, in addition to the
19 discretionary disclosure of information pursuant to the act, the Director may report the
20 possible misuse or abuse by a patient to the specific prescriber or dispenser of the
21 covered prescription drug for the purpose of intervention to prevent such misuse or abuse.

22 “(c) Upon the development of the criteria and data analysis, the Program may
23 review prescription monitoring data for indications of a possible violation of law or a

1 possible breach of professional standards by a prescriber or a dispenser; and if the
2 Program's review indicates a possible violation of law or a possible breach of
3 professional standards by a prescriber or a dispenser, in addition to the discretionary
4 disclosure of information pursuant to the act, the Director may:

5 “(1) Notify the prescriber or dispenser of the possible violation of law or
6 possible breach of professional standards; and

7 “(2) Provide education to the prescriber or dispenser.”.

8 Sec. 3. Fiscal impact statement.

9 The Council adopts the fiscal impact statement of the Budget Director as the
10 fiscal impact statement required by section 4a of the General Legislative Procedures Act
11 of 1975, approved October 16, 2006, (120 Stat. 2038; D.C. Official Code § 1-301.47a).

12 Sec. 4. Effective date.

13 (a) This act shall take effect following approval by the Mayor (or in the event of
14 veto by the Mayor, action by the Council to override the veto), a 30-day period of
15 congressional review as provided in section 602(c)(1) of the District of Columbia Home
16 Rule Act of 1973, approved December 24, 1973, (87 Stat. 813; D.C. Official Code § 1-
17 206.02(c)(1)), and publication in the District of Columbia Register.

18 (b) This act shall expire after 225 days of its having taken effect.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General

ATTORNEY GENERAL
KARL A. RACINE




PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

Legal Counsel Division

MEMORANDUM

TO: Phillip L. Husband
General Counsel
Department of Health

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

DATE: May 29, 2018

SUBJECT: Legal Sufficiency Review of the "Prescription Drug Monitoring Program Amendment Act of 2018", "Prescription Drug Monitoring Program Amendment Temporary Act of 2018", "Prescription Drug Monitoring Program Amendment Emergency Act of 2018", and the Accompanying Emergency Declaration Resolution (AE-18-239)

The above-referenced draft legislation is legally sufficient.

The legislation would amend the Prescription Drug Monitoring Program Act of 2013 (D.C. Law 20-66; D.C. Official Code § 48-853.01 *et seq.*) to require prescribers and dispensers of controlled and covered substances to register with the Department of Health; authorize the Director of the Department of Health to disclose information relevant to a specific investigation of a specific patient, dispenser, or prescriber related to controlled substances to an agent of the Federal Bureau of Investigation; prohibit individuals from providing false or misleading information to the Department of Health with the intent to obtain unauthorized access to the Prescription Drug Monitoring Program database, or to alter the information contained in the database, and authorize the imposition of sanctions; authorize the Director to analyze data collected by the Program to determine whether a patient is abusing covered substances and whether a prescriber or dispenser may be violating the law or professional standards; and authorize the Director to disclose patient covered substance abuse or misuse, and possible breaches of the law or professional standards by a prescriber or dispenser, to the prescriber or dispenser.

If you have any questions, please contact Crystal Liu, Assistant Attorney General, Legal Counsel Division, at 724-6152, or me at 724-5524.

JMR/cl
Attachments

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



Legal Counsel Division

MEMORANDUM

TO: Alana Intrieri
Executive Director
Office of Policy and Legislative Affairs

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

DATE: May 29, 2018

SUBJECT: Legal Sufficiency Review of the "Prescription Drug Monitoring Program Amendment Act of 2018", "Prescription Drug Monitoring Program Amendment Temporary Act of 2018", "Prescription Drug Monitoring Program Amendment Emergency Act of 2018", and the Accompanying Emergency Declaration Resolution (AE-18-239)

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

A handwritten signature in cursive script, reading "Janet M. Robins".

Janet M. Robins