

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To allow the Metropolitan Police Department, hospitals with institutional pharmacies, and retail pharmacies (“authorized collectors”) to collect controlled substances from ultimate users and certain other individuals at collection receptacles, to require authorized collectors to distribute educational materials to patients regarding the safe disposal of controlled substances, to require the Department of Health, in coordination with the Deputy Mayor for Public Safety and Justice, to install collection receptacles, maintain a list of the locations of collection receptacles, and coordinate with the Metropolitan Police Department and authorized collectors regarding the destruction of the contents of collection receptacles, to authorize a long-term care facility to dispose of controlled substances on behalf of an ultimate user who resides, or has resided, at the long-term care facility.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Safe Disposal of Controlled Substances Act of 2018”.

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) “Authorized collector” means a hospital with an institutional pharmacy, or a retail pharmacy, authorized by the Drug Enforcement Administration pursuant to 21 C.F.R. § 1301.51 to collect controlled substances.

(2) “Controlled substance” means a drug, substance, or precursor, as set forth in Schedules II through V of the Controlled Substances Act of 1970, approved October 27, 1970 (84 Stat. 1243; 21 U.S.C. § 801 *et seq.*).

(3) “Department” means the Department of Health.

(4) “Hospital” means a facility that provides 24-hour inpatient care, including diagnostic, therapeutic, and other health-related services, for a variety of physical or mental conditions, and may in addition provide outpatient services, particularly emergency care.

(5) “Institutional pharmacy” means that physical portion of a hospital where drugs, devices, and other materials used in the diagnosis or treatment of injury, illness, and disease are dispensed, compounded, or distributed, and pharmaceutical care is provided.

(6) “Long-term care facility” shall have the same meaning as provided in section 2(11) of the Death with Dignity Act of 2016, effective February 18, 2017 (D.C. Law 21-182; D.C. Official Code § 7-661.01(11)).

(7) “Retail pharmacy” means a pharmacy that provides services to the public on an outpatient basis.

(8) “Ultimate user” means an individual who has lawfully obtained, and who possesses, a controlled substance for his own use or for the use of a member of his household or for an animal owned by him or by a member of his household.

**Sec. 3. Safe disposal of controlled substances.**

(a) The following entities are authorized to collect controlled substances from ultimate users and other non-registrants for destruction in compliance with the requirements of this act and 21 C.F.R. Part 1317:

- (1) The Metropolitan Police Department when in the course of official duties; and
- (2) An authorized collector.

(b) The following persons in lawful possession of a controlled substance may transfer that substance to an entity authorized to collect controlled substances pursuant to subsection (a) of this section:

- (1) An ultimate user in lawful possession of a controlled substance;
- (2) Any person lawfully entitled to dispose of a decedent’s property if that decedent was an ultimate user who died while in lawful possession of a controlled substance; and
- (3) A long-term care facility on behalf of an ultimate user who resides or resided at such long-term care facility and is or was in lawful possession of a controlled substance.

**Sec. 4. Collection by law enforcement.**

(a) The Metropolitan Police Department shall collect controlled substances from ultimate users and persons lawfully entitled to dispose of an ultimate user decedent’s property using collection receptacles located inside the agency’s physical facilities and shall maintain records of the removal, storage, or destruction of any controlled substances that are collected in a manner that is consistent with the agency’s recordkeeping requirements for illicit controlled substances evidence. The Metropolitan Police Department shall not be required to verify that an individual seeking to deposit a controlled substance in a collection receptacle is an ultimate user or is lawfully entitled to dispose of an ultimate user decedent’s property.

(b) Any controlled substances collected by the Metropolitan Police Department through a collection receptacle shall be:

- (1) Stored in a manner that prevents the diversion of controlled substances and is consistent with the agency’s standard procedures for storing illicit controlled substances; and
- (2) Transferred to a destruction location in a manner that prevents the diversion of controlled substances and is consistent with the agency’s standard procedures for transferring illicit controlled substances.

**Sec. 5. Registrants authorized to collect; authorized collection activities.**

(a)(1) Hospitals with an institutional pharmacy shall register as authorized collectors in accordance with 21 C.F.R. § 1301.51.

(2) Retail pharmacies that desire to be authorized collectors may modify their registration to obtain authorization to serve as authorized collectors in accordance with 21 C.F.R. § 1301.51.

(3) Authorization to serve as an authorized collector is subject to renewal. If a hospital with an institutional pharmacy or a retail pharmacy that is authorized to collect ceases activities as an authorized collector, such registrant shall notify the Drug Enforcement Administration in accordance with 21 C.F.R. § 1301.52(f).

(b) Collection of controlled substances by authorized collectors shall occur only at the following locations:

(1) The registered locations of authorized collectors; and

(2) Long-term care facilities at which authorized collectors are authorized to maintain collection receptacles.

(c) Authorized collectors shall manage and maintain collection receptacles located at their authorized collection locations in accordance with section 6 and 21 C.F.R. § 1317.75, and promptly dispose of sealed inner liners and their contents as provided for in 21 C.F.R. § 1317.05(c)(2).

(d) Authorized collectors shall distribute educational materials to patients regarding the safe consumer disposal of controlled substances.

**Sec. 6. Collection receptacles.**

(a)(1) The Department, in coordination with the Deputy Mayor for Public Safety and Justice, shall be responsible for installing collection receptacles:

(A) Inside physical facilities of the Metropolitan Police Department; and

(B) Inside an authorized collector's registered location or a long-term care facility, at the request of the authorized collector.

(2) The Department shall maintain a list of the locations of collection receptacles for controlled substances on its website and provide information on safe consumer disposal of controlled substances at such collection receptacles.

(3) The Department shall coordinate with the Metropolitan Police Department and authorized collectors regarding the destruction of the contents of collection receptacles.

(b)(1) Only those controlled substances that are lawfully possessed by an ultimate user or a person entitled to dispose of an ultimate user decedent's property may be collected at a collection receptacle.

(2) Controlled and non-controlled substances may be collected together at a collection receptacle and comingled, although comingling is not required.

(c)(1) Authorized collectors shall only allow ultimate users and other authorized non-registrant persons in lawful possession of a controlled substance to deposit such controlled substances in a collection receptacle at a registered location.

(2) Authorized collectors shall not permit an ultimate user to transfer such controlled substance to any person for any reason. Once a controlled substance has been deposited into a collection receptacle, the controlled substance shall not be counted, sorted, inventoried, or otherwise individually handled.

(d) Collection receptacles shall be securely placed and maintained:

(1) Inside an authorized collector's registered location, inside physical facilities of the Metropolitan Police Department or at an authorized long-term care facility; and

(2) At an authorized collector's registered location, in the immediate proximity of a designated area where controlled substances are stored and at which an employee is present; provided, that:

(A) A collection receptacle located at a hospital with an institutional pharmacy shall be located in an area regularly monitored by employees, and shall not be located in the proximity of any area where emergency or urgent care is provided; and

(B) At a long-term care facility, a collection receptacle shall be located in a secured area regularly monitored by long-term care facility employees.

(e) A controlled substance collection receptacle shall meet the following design specifications:

(1) Be securely fastened to a permanent structure so that it cannot be removed;

(2) Be a securely locked, substantially constructed container with a permanent outer container and a removable inner liner as specified in 21 C.F.R. § 1317.60;

(3) The outer container shall include a small opening that allows contents to be added to the inner liner, but does not allow the removal of the inner liner's contents; and

(4) The outer container shall prominently display a sign indicating that only controlled substances, and non-controlled substances, if an authorized collector or the Metropolitan Police Department chooses to commingle substances, are acceptable substances; provided, that Schedule I controlled substances, controlled substances that are not lawfully possessed by the ultimate user, and other illicit or dangerous substances are not permitted.

(f) The small opening in the outer container of the collection receptacle shall be locked or made otherwise inaccessible to the public when an employee is not present, or when the collection receptacle is not being regularly monitored by long-term care facility employees.

(g) The installation and removal of the inner liner of the collection receptacle shall be performed by or under the supervision of at least 2 employees of the authorized collector.

#### **Sec. 7. Collection receptacles at long-term care facilities.**

(a)(1) A long-term care facility may dispose of controlled substances on behalf of an ultimate user who resides, or has resided, at such long-term care facility by transferring those controlled substances into an authorized collection receptacle located at that long-term care facility.

(2) When disposing of such controlled substances by transferring those substances into a collection receptacle, such disposal shall occur immediately, but no longer than 3 business days after the discontinuation of use by the ultimate user. Discontinuation of use includes a

permanent discontinuation of use as directed by the prescriber, as a result of the resident's transfer from the long-term care facility, or as a result of death.

(b) Authorized collectors may manage and maintain collection receptacles at long-term care facilities and remove, seal, transfer, and store, or supervise the removal, sealing, transfer, and storage of, sealed inner liners at long-term care facilities in accordance with the requirements of this act and 21 C.F.R. Part 1317.

(c) The installation, removal, transfer, and storage of inner liners shall be performed either:

(1) By or under the supervision of one employee of the authorized collector and one supervisor-level employee of the long-term care facility, such as a charge nurse or supervisor, designated by the authorized collector; or

(2) By or under the supervision of 2 employees of the authorized collector.

(d) Upon removal, sealed inner liners may only be stored at the long-term care facility for up to 3 business days in a securely locked, substantially constructed cabinet or a securely locked room with controlled access until transfer in accordance with 21 C.F.R. § 1317.05(c)(2)(iv).

(e) An authorized collector shall not operate a collection receptacle at a long-term care facility until its registration has been modified in accordance with 21 C.F.R. § 1301.51.

#### **Sec. 8. Applicability.**

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

#### **Sec. 9. Fiscal impact statement.**

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

#### **Sec. 10. Effective date.**

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

**ENROLLED ORIGINAL**

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia