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A BILL  
22-228

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To allow for the collection of controlled substances by law enforcement; to allow hospitals, long-term care facilities and pharmacies to register as authorized collectors of controlled substance; to require authorized collectors to distribute educational materials to patients regarding the safe disposal of controlled substances; and to require the Department of Health in coordination with the Deputy Mayor for Public Safety and Justice to be responsible for installing collection receptacles

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 retail pharmacy authorized by the Drug Enforcement Administration pursuant to 21 C.F.R. § 1317.40 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.

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

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

34 (6) "Long-term care facility" shall have the same meaning as provided in section  
35 2(11) of the Death with Dignity Act of 2016, effective February 18, 2017 (D.C. Law 21-182;  
36 D.C. Official Code § 7-661.01(11)).

37 (7) "Retail pharmacy" means a pharmacy that provides services to the public on  
38 an outpatient basis.

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

42 Sec. 3. Safe disposal of controlled substances.

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

46 (1) The Metropolitan Police Department and the Fire and Emergency Medical  
47 Services Department when in the course of official duties; and

48                   (2) A hospital with an institutional pharmacy or a retail pharmacy designated as  
49 an authorized collector.

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

53                   (1) An ultimate user in lawful possession of a controlled substance;

54                   (2) Any person lawfully entitled to dispose of a decedent's property if that  
55 decedent was an ultimate user who died while in lawful possession of a controlled substance; and

56                   (3) A long-term care facility on behalf of an ultimate user who resides or resided  
57 at such long-term care facility and is or was in lawful possession of a controlled substance.

58                   Sec. 4. Collection by law enforcement.

59                   (a) The Metropolitan Police Department and the Fire and Emergency Medical Services  
60 Department shall collect controlled substances from ultimate users and persons lawfully entitled  
61 to dispose of an ultimate user decedent's property using collection receptacles located inside that  
62 agency's physical facilities and shall maintain records of the removal, storage, or destruction of  
63 any controlled substances that are collected in a manner that is consistent with that agency's  
64 recordkeeping requirements for illicit controlled substances evidence.

65                   (b) Any controlled substances collected by the Metropolitan Police Department and the  
66 Fire and Emergency Services Department through a collection receptacle shall be:

67 (1) Stored in a manner that prevents the diversion of controlled substances and is  
68 consistent with that agency's standard procedures for storing illicit controlled substances; and

69 (2) Transferred to a destruction location in a manner that prevents the diversion of  
70 controlled substances and is consistent with that agency's standard procedures for transferring  
71 illicit controlled substances.

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

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

75 (2) Retail pharmacies that desire to be authorized collectors may modify their  
76 registration to obtain authorization to serve as authorized collectors in accordance with 21 C.F.R.  
77 § 1301.51.

78 (3) Authorization to be a collector is subject to renewal. If a registrant that is  
79 authorized to collect ceases activities as a collector, such registrant shall notify the Drug  
80 Enforcement Administration in accordance with 21 C.F.R. § 1301.75.

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

83 (1) The registered locations of authorized collectors; and

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

86 (c) Authorized collectors shall manage and maintain collection receptacles located at  
87 their authorized collection locations in accordance with section 6 and 21 C.F.R. § 1317.75, and  
88 promptly dispose of sealed inner liners and their contents as provided for in 21 C.F.R. §  
89 1317.05(c)(2).

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

92 Sec. 6. Collection receptacles.

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

95 (A) Inside physical facilities of the Metropolitan Police Department or the  
96 Fire and Emergency Medical Services Department; and

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

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

102 (3) The Department shall coordinate with the Metropolitan Police Department, the  
103 Fire and Emergency Medical Services Department, and authorized collectors regarding the  
104 destruction of the contents of collection receptacles.

105 (b)(1) Only those controlled substances that are lawfully possessed by an ultimate user  
106 may be collected at a collection receptacle.

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

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

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

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

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

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

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

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

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

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

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

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

135 (4) The outer container shall prominently display a sign indicating that only  
136 controlled substances, and non-controlled substances, if an authorized collector, the Metropolitan  
137 Police Department, or the Fire and Emergency Medical Services Department chooses to  
138 comingle substances, are acceptable substances; provided, that Schedule I controlled substances,  
139 controlled substances that are not lawfully possessed by the ultimate user, and other illicit or  
140 dangerous substances are not permitted; and

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

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

146 Sec. 7. Collection receptacles at long-term care facilities.

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

151 (2) When disposing of such controlled substances by transferring those substances  
152 into a collection receptacle, such disposal shall occur immediately, but no longer than 3 business  
153 days after the discontinuation of use by the ultimate user. Discontinuation of use includes a  
154 permanent discontinuation of use as directed by the prescriber, as a result of the resident's  
155 transfer from the long-term care facility, or as a result of death.

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

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

162 (1) By or under the supervision of one employee of the authorized collector and  
163 one supervisor-level employee of the long-term care facility (e.g., a charge nurse or supervisor)  
164 designated by the authorized collector; or

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

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

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

171 Sec. 8. Applicability.

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

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

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

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

181                   Sec. ~~98~~. Fiscal impact statement.

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

185                   Sec. ~~109~~. Effective date.

186                   This act shall take effect after approval by the Mayor (or in the event of veto by the  
187 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
188 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
189 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
190 Columbia Register.