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: **November 28, 2018**

SUBJECT: **Fiscal Impact Statement – Opioid Overdose Treatment and Prevention Omnibus Act of 2018**

REFERENCE: **Bill 22-459, Draft Committee Print as shared with the Office of Revenue Analysis on November 28, 2018**

Conclusion

Funds are not sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill. The bill's implementation will cost approximately $83,000 in fiscal year 2019 and $332,000 over the four-year financial plan period. The bill's implementation is subject to its inclusion in an approved budget and financial plan.

Background

TITLE I – OPIOID USE DISORDER TREATMENT

The bill requires all health insurers offering plans or insurance in the District to develop a list[1] of all in-network health care providers that treat opioid use disorder.[2] The list should include each provider's contact information and whether the provider is approved to prescribe opioid use disorder treatment medication by the United States Drug Enforcement Agency. Health insurers must maintain at least one in-network provider who is accepting new patients and is authorized to treat opioid use disorder.

Annually, beginning on January 1, 2020, each health insurer should submit this list to the Department of Behavioral Health (DBH), the Department of Health Care Finance (DHCF), the Department of Health (DOH), and the Council. These submissions should also include the number of

[1] The list should be updated quarterly and presented to a beneficiary or prospective beneficiary upon request.
[2] The bill defines opioid use disorder as a pattern of opioid use leading to clinically significant impairment or distress.

beneficiaries treated for opioid use disorder and an explanation of the insurer's efforts to ensure its in-network capacity can meet the needs of its beneficiaries.

The Mayor must also submit an annual report to the Council beginning on January 1, 2020 that analyzes opioid use disorder treatment programs in other jurisdictions, evaluates treatment capacity among the District's health care providers, identifies barriers to expanding access to treatment medications, assesses the costs of different treatment options, assesses reimbursement rates for providers, and identifies treatment option gaps in the District.

The bill requires Medicaid to cover and reimburse all medication-assisted treatment for opioid use disorder.[3]

The bill also requires hospitals in the District to develop protocols regarding patients with opioid use disorder and annually submit those protocols to DOH beginning October 1, 2019. By June 1, 2020 and each year thereafter, DOH should analyze each hospital's protocols and submit the analysis to the chairperson of the Council committee that has jurisdiction over health matters.

The bill requires the Department of Corrections (DOC) to ensure any individuals treating inmates are approved to treat opioid use disorder by the American Society of Addiction Medicine, the American Academy of Addiction Psychiatry, the American Medical Association, the American Osteopathic Association, the American Psychiatric Association, or any other organization DOH determines is appropriate. DOC should work with DOH to ensure that all medications prescribed to inmates are appropriately administered and are administered for the entire length of the inmate's stay within the DOC.[4]

TITLE II – SAFE ACCESS

The bill prohibits the Alcoholic Beverage Control Board from denying or revoking a license on the grounds that an applicant has knowingly permitted patrons to possess drug paraphernalia if that paraphernalia is for personal use. The bill also prohibits the Mayor from revoking any business license for knowingly permitting the possession of drug paraphernalia for personal use.

The bill makes it lawful to use or possess equipment designed to test the strength, effectiveness, or purity of a controlled substance, so long as it is for the purpose of testing personal use quantities.[5] The bill also makes it lawful for a community-based organization to deliver, sell, or possess this same equipment. An individual is also not required to forfeit any money found near personal use drug paraphernalia.

The bill repeals a prohibition on the distribution of needles or syringes within 1,000 feet of a school and at specific enumerated sites.[6]

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[3] These treatments should not be subject to utilization management.
[4] The individual treating the inmate can terminate treatment sooner if she or he determines, based on the individual treatment plan, or if the inmate is awaiting designation to Federal Bureau of Prisons Custody that ending treatment prior to the end of DOC's custody period is appropriate.
[5] These are quantities where there is no evidence of intent to distribute or manufacture controlled substances.
[6] District of Columbia Appropriations Act of 2001, approved November 22, 2000 (114 Stat. 2440; D.C. Official Code § 48-1121).

The bill allows any dispensary, cultivation center, or laboratory to relocate to any ward in the District[7] where these businesses are now only authorized to relocate within their current ward.

TITLE III – SUBSTANCE ABUSE AND OPIOID OVERDOSE PREVENTION

Before a pharmacist can provide an opioid antagonist[8] to someone without a prescription, the pharmacist must complete a training program on dispensing opioid antagonists. The bill specifies[9] that the Board of Pharmacy must review and approve each opioid antagonist training program for compliance with the law. The bill also approves one opioid antagonist training program administered through the Center for Rational Prescribing.

The bill clarifies[10] that physicians and pharmacists are not required to dispense opioid antagonists and limits[11] the liability of physicians or pharmacists who in her or his professional judgement do not dispense or distribute opioid antagonists. The bill makes[12] opioid antagonist prescribing and dispensing consistent with the scope of practice of physicians and pharmacists.

TITLE IV – PRESCRIPTION DRUG MONITORING PROGRAM

The bill requires all physician prescribers and dispensers to be registered with the DOH Prescription Drug Monitoring Program (PDMP). The PDMP is an electronic database used to monitor and collect data on the dispensation of prescription data for Schedule II, III, IV, and V controlled substances, as well as products containing Butalbital and Cyclobenzaprine. The Health Occupation Boards will enforce this requirement by checking to see if a physician is registered before licensing, renewing, reactivating, or reinstating a professional license.

The bill allows DOH to issue rules on the criteria for indicators of abuse of controlled substance and to analyze PDMP data to identify possible abuse or misuse of controlled substances by prescribers, dispensers, and patients. DOH may intervene in suspected cases of abuse or misuse by notifying prescribers and dispensers of possible violation of the law. The bill also authorizes DOH to disclose PDMP information to federal law-enforcement agencies if it is relevant to investigations on misuse or abuse of controlled substances.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill.

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[7] Dispensaries and cultivation centers are restricted to no more than two or six, respectively, per ward.
[8] An opioid antagonist is a drug, such as Naloxone, that is administered in the event of an opioid-related overdose.
[9] By amending Section 4 of An Act To relieve physicians of liability for negligent medical treatment at the scene of an accident in the District of Columbia, approved November 8, 1965 (79 Stat. 1302; D.C. Official Code § 7-404).
[10] Id.
[11] Id.
[12] Id.

Title I

The bill requires DBH, DHCF, DOH, and the Council to receive an annual list from health insurance companies indicating the in-network providers that treat opioid use disorder, the number of beneficiaries seeking treatment each year, and efforts by the insurer to ensure that beneficiary needs are met by the insurer's provider capacity. There are no costs for the agencies to receive these lists.

The bill requires the Mayor to submit an annual report to the Council that analyzes opioid use disorder treatment programs in other jurisdictions, evaluates the current treatment capacity in the District, and researches treatment gaps and costs in the District. DHCF would need to hire a contractor to complete the annual report on behalf of the Mayor. The contractor will cost the agency $150,000 annually. DHCF would be able to receive federal funding to assist with this cost and it would only need $82,500 annually in local funds to match the federal funding.

DC Medicaid covers medication-assisted treatment for opioid use disorder and no additional resources are needed to implement the bill's Medicaid coverage provision.

The bill requires hospitals in the District to submit to DOH protocols regarding how they deal with patients with opioid use disorder. DOH must then analyze and submit its analysis to the Council. DOH can absorb any costs associated with this analysis within its existing budgeted resources.

DOC can absorb the costs of the bill's DOC inmate treatment provisions with existing budgeted resources.

Title II

The bill prohibits District business licensing entities, including the Alcoholic Beverage Control Board, from suspending or revoking business licenses solely based on a business' knowledge that a patron possessed drug paraphernalia that was designed for personal use. The bill also legalizes equipment that is used to test the strength, effectiveness, or purity of a controlled substance that is designed for personal use. Community-based organizations are also allowed to possess or distribute these same devices. There is no cost associated with these provisions.

There is no fiscal impact associated with the repeal of the needle distribution restrictions.

DOH would need to approve any medical marijuana cultivation centers, dispensaries, or testing laboratories seeking relocate to a different ward, within prescribed limits per ward. DOH can absorb any costs associated with this provision within existing resources.

Title III

The Board of Pharmacy can implement the bill's opioid antagonist prescribing and dispensing training and other requirements within existing budgeted resources.

Title IV

The bill requires prescribers to register with DOH's PDMP database so that DOH can track and analyze the dispensation of Schedule II through V controlled substances for potential misuse. DOH can enforce this requirement and analyze the underlying data with its existing budgeted resources.