

## **OVERDOSE FATALITY REVIEW ACT**

### **Act 313 of 2023**

AN ACT to provide for the review and prevention of deaths from drug overdose in this state; to allow for the creation of overdose fatality review teams; to provide for the powers and duties of the overdose fatality review teams; to regulate certain entities; to prescribe powers and duties of certain state and local governmental officers and entities; and to prescribe remedies for a violation of this act.

**History:** 2023, Act 313, Eff. Feb. 13, 2024.

*The People of the State of Michigan enact:*

#### **330.3021 Short title.**

Sec. 1. This act may be cited as the "overdose fatality review act".

**History:** 2023, Act 313, Eff. Feb. 13, 2024.

#### **330.3023 Definitions.**

Sec. 3. As used in this act:

(a) "Community overdose review" means performing a series of individual overdose reviews to identify systematic barriers to innovative overdose prevention and intervention strategies for that community.

(b) "County health officer" means a local health officer as that term is defined in section 1105 of the public health code, 1978 PA 368, MCL 333.1105.

(c) "Data sharing agreement" means an agreement that identifies the data that are shared and how the data are used.

(d) "Drug" means that term as defined in section 7105 of the public health code, 1978 PA 368, MCL 333.7105.

(e) "Drug overdose" means that term as defined in section 7403 of the public health code, 1978 PA 368, MCL 333.7403.

(f) "Hospital" means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106, except that it also includes a hospital licensed under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(g) "Identifying information" means any representation of information that permits the identity of an individual to whom the information applies to be reasonably inferred by either direct or indirect means.

(h) "Individual overdose review" means the case review of an individual who has died as the result of a drug overdose, including, but not limited to, a review of both of the following:

(i) Consideration of the individual's points of contact, if any, with health care systems, social services, educational institutions, child and family services, the criminal justice system, including law enforcement, and any other system.

(ii) Identification of the specific factors and social determinants of health that put the individual at risk of a drug overdose.

(i) "Mental health provider" means any of the following individuals:

(i) A psychologist as that term is defined in section 18201 of the public health code, 1978 PA 368, MCL 333.18201.

(ii) A licensed professional counselor as that term is defined in section 18101 of the public health code, 1978 PA 368, MCL 333.18101.

(iii) A marriage and family therapist as that term is defined in section 16901 of the public health code, 1978 PA 368, MCL 333.16901.

(iv) A licensed bachelor's social worker as that term is defined in section 18501 of the public health code, 1978 PA 368, MCL 333.18501.

(v) A licensed master's social worker as that term is defined in section 18501 of the public health code, 1978 PA 368, MCL 333.18501.

(j) "Multidisciplinary team" means a group of professionals from a variety of fields of study or sectors who work together toward a shared purpose.

(k) "Overdose fatality review team" means the multidisciplinary team established under this act by a county, a group of counties, or a tribe to conduct individual overdose reviews and overdose fatality reviews.

(l) "Participating county" means a county that, by itself or with 1 or more other counties, establishes an overdose fatality review team under section 5(1).

(m) "Recovery coach" means a professional who provides assistance to support long-term recovery from a substance use disorder.

(n) "Substance use disorder" means a pattern of using alcohol or other drugs that leads to clinical or functional impairment.

(o) "Substance use disorder treatment provider" means an individual or entity that is licensed in this state to treat an individual with substance use disorder using medications that are approved by the United States Food and Drug Administration to treat substance use disorder.

**History:** 2023, Act 313, Eff. Feb. 13, 2024.

### **330.3025 Overdose fatality review team; membership; powers and duties; annual report.**

Sec. 5. (1) A county may establish an overdose fatality review team. Two or more counties may establish a single overdose fatality review team for those counties.

(2) Any of the following individuals may be a member of an overdose fatality review team:

(a) The following officials of the participating county:

(i) The county health officer.

(ii) The prosecuting attorney, or the attorney's designee.

(iii) The director of the community mental health agency, or the director's designee.

(iv) The county medical examiner, or the medical examiner's designee.

(b) A law enforcement officer of the department of state police, the participating county, or a municipality within the participating county.

(c) A representative of a jail or detention center in the participating county.

(d) A health care provider who specializes in the prevention, diagnosis, and treatment of substance use disorders.

(e) A mental health provider who specializes in the treatment of substance use disorders.

(f) A substance use disorder treatment provider.

(g) A representative of an emergency medical services provider in the participating county.

(h) A representative from the department of corrections who has experience with parole, probation, or community corrections.

(i) An epidemiologist from a local health department or an organization in the participating county.

(j) A child protective services caseworker.

(k) A representative from the department of health and human services who is involved with issues regarding adult protective services.

(l) A representative of a hospital with a service area within the participating county.

(m) Any other individual whose membership is necessary for the overdose fatality review team to complete duties required under this act.

(3) At the first meeting of the overdose fatality review team, the overdose fatality review team shall elect a member as a chairperson and may elect other officers that it considers necessary or appropriate.

(4) The chairperson shall do all of the following for the overdose fatality review team:

(a) Solicit and recruit additional individuals listed under subsection (5) as provided under subsection (6)(e) to participate in individual overdose reviews and community overdose reviews.

(b) Call the meetings and implement the protocols and procedures.

(c) Oversee that confidentiality forms as described under section 7 are signed as needed.

(d) Request and collect the information needed to conduct individual overdose reviews and community overdose reviews.

(e) If a vacancy occurs, appoint an individual from the same or equivalent position or discipline under subsection (2).

(f) Make written requests for information under section 7 that are necessary to carry out the duties of the overdose fatality review team under this act.

(5) Any of the following individuals may be invited to participate in an individual overdose review or community overdose review:

(a) A prepaid inpatient health plan chief executive officer or that officer's designee, or the prepaid inpatient health plan substance use disorder director.

(b) A superintendent of a school in the participating county, or the superintendent's designee.

(c) A representative of a hospital in the participating county.

(d) A health care provider who specializes in emergency medicine.

(e) A health care provider who specializes in pain management.

(f) A pharmacist who has expertise in addressing prescription drug misuse and diversion.

(g) A representative from a poison control center.

(h) A mental health provider.

(i) A prescription drug monitoring program administrator.

- (j) A representative from a harm reduction provider.
- (k) A recovery coach, peer support worker, or other representative of the recovery community.
- (l) A representative from a drug court in the participating county.
- (m) A substance use disorder prevention specialist or representative.
- (n) The director of the department of health and human services office in the participating county, or the director's designee.
- (o) Any other individual necessary to complete the duties of the overdose fatality review team under this act.
- (6) An overdose fatality review team shall do all of the following:
  - (a) Promote cooperation and coordination among agencies involved in the investigation of drug overdose fatalities.
  - (b) Identify potential causes and incidence of drug overdose fatalities in the participating county.
  - (c) Recommend and plan for changes within the agencies represented on the overdose fatality review team to prevent drug overdose fatalities.
  - (d) Propose potential changes to law, policy, funding, or practices to prevent drug overdoses.
  - (e) In consultation with the department of health and human services, establish and implement protocols and procedures to do all of the following:
    - (i) Recruit individuals listed under subsection (5) to participate in individual overdose reviews and community overdose reviews.
    - (ii) Plan and facilitate meetings.
    - (iii) Collect, analyze, interpret, and maintain data on drug overdose fatalities in the participating county.
    - (iv) Build a recommendation plan.
  - (f) Recommend prevention and intervention strategies, focusing on evidence-based strategies and promising practices, to improve the coordination of services and investigations among agencies represented by members of the overdose fatality review team to reduce drug overdose fatalities.
- (7) Meetings of an overdose fatality review team may be conducted remotely through a secure platform.
- (8) Subject to subsection (9), the overdose fatality review team shall submit an annual report to the public, the local health department of the participating county, and the department of health and human services that contains all of the following information:
  - (a) The total number of drug overdose fatalities that occurred within the participating county.
  - (b) The number of individual overdose reviews conducted by the overdose fatality review team.
  - (c) Any recommendations.
- (9) The report under subsection (8) must not contain identifying information.

**History:** 2023, Act 313, Eff. Feb. 13, 2024.

### **330.3027 Confidentiality requirements; written request for information; fees.**

Sec. 7. (1) Except as otherwise expressly prohibited by federal or state law and subject to subsection (2), overdose fatality review team members and individuals invited under section 5(5) may discuss confidential matters and share confidential information, as outlined in data sharing agreements, during an overdose fatality review team meeting. This act does not authorize the disclosure of confidential information described under this subsection outside of the meeting.

(2) If an individual has not signed a confidentiality form, that individual must not participate in or observe an overdose fatality review team meeting, individual overdose review, or community overdose review. A confidentiality form required under this subsection must summarize the purpose and goal of the meeting or review, the requirements for maintaining the confidentiality of any information disclosed during the meeting, and any consequences for the failure to maintain confidentiality.

(3) Except as otherwise expressly prohibited by federal or state law and subject to subsection (5), on written request of the chairperson, a health care provider, substance use disorder treatment provider, hospital, or health system shall, not more than 30 business days after receiving the request, provide the chairperson information and relevant records regarding the physical health, mental health, or treatment for substance use disorder of an individual who is the subject of an individual overdose review of the overdose fatality review team.

(4) Except as otherwise expressly prohibited by federal or state law and subject to subsection (5), on written request of the chairperson, a person shall, not more than 5 business days after receiving the request, provide the chairperson the following information and records:

- (a) The following information or records regarding the individual who is the subject of an individual overdose review:
  - (i) Death investigative information.

- (ii) Medical examiner investigative information.
- (iii) Law enforcement investigative information.
- (iv) Emergency medical services reports.
- (v) Fire department records.
- (vi) Prosecuting attorney records.
- (vii) Parole and probation information and records.
- (viii) Court records.
- (ix) School records.

(x) Information and records regarding resources provided by a social services agency.

(b) Information and records regarding resources provided by a social services agency to a family member of the individual who is the subject of an individual overdose review.

(5) A person that provides the chairperson records or information under subsection (3) or (4) may charge the overdose fatality review team a fee in the same manner as a public body may charge a fee under section 4 of the freedom of information act, 1976 PA 442, MCL 15.234.

(6) If a family member or friend of the individual who is the subject of an individual overdose review submits a request to submit information to an overdose fatality review team, a member of that team may contact, interview, or obtain the information about the individual from that family member or friend.

(7) Except as provided in section 5(8), information obtained or created by or for an overdose fatality review team is confidential and not subject to discovery, subpoena, or the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Documents and records otherwise available from other sources are not exempt from discovery, subpoena, or introduction into evidence from other sources solely because they were presented to or reviewed by an overdose fatality review team.

(8) An overdose fatality review team shall comply with federal and state laws pertaining to confidentiality and to the disclosure of substance use disorder treatment records, including, but not limited to, 42 USC 290dd-2 and 42 CFR part 2.

**History:** 2023, Act 313, Eff. Feb. 13, 2024.

### **330.3031 Disclosure of confidential information; violation; civil action; remedies.**

Sec. 11. If an overdose fatality review team member knowingly discloses confidential information in violation of this act, a person aggrieved by that violation may bring a civil action for damages and any costs and reasonable attorney fees allowed by the court.

**History:** 2023, Act 313, Eff. Feb. 13, 2024.