

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2798

 By: Downing, McCall, Sanders,
 West (Tammy), Blancett,
 Bush and Frix of the House

7 and

8 Griffin of the Senate

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11 COMMITTEE SUBSTITUTE

12 An Act relating to public health and safety; creating
13 the Opioid Overdose Fatality Review Board; stating
14 powers and duties of the Board; providing list of
15 duties and responsibilities of the Board; requiring
16 Board to meet in executive session when reviewing and
17 discussing overdose cases; making certain discussions
18 and documents privileged and inadmissible in
19 proceedings; requiring business meetings conducted by
20 the Board be in compliance with the Oklahoma Open
21 Meeting Act; directing Board to submit and make
22 available to the public annual statistical reports
23 and summary of activities by certain date; providing
24 for membership of the Board; providing for election
 of chair and vice-chair; requiring Board to meet on
 quarterly basis; providing for travel reimbursement;
 directing Office of the Attorney General to provide
 administrative assistance and services to the Board;
 requiring the Center for Health Statistics of the
 Department of Health to forward certain death
 certificates to the Office of the Chief Medical
 Examiner; directing Office of Chief Medical Examiner
 to conduct reviews of overdose death certificates;
 requiring medical and law enforcement entities to
 provide information to the Board upon request;

1 providing for codification; and providing an
2 effective date.

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5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

6 SECTION 1. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2-1001 of Title 63, unless there
8 is created a duplication in numbering, reads as follows:

9 A. There is hereby created until July 1, 2023, in accordance
10 with the Oklahoma Sunset Law, the Opioid Overdose Fatality Review
11 Board within the Office of the Attorney General. The Board shall
12 have the power and duty to:

13 1. Conduct case reviews of deaths of persons eighteen (18)
14 years of age or older due to licit or illicit opioid use in this
15 state;

16 2. Collect, analyze and interpret state and local data on
17 opioid overdose deaths;

18 3. Develop a state and local database on opioid overdose
19 deaths;

20 4. Improve policies, procedures and practices within the
21 agencies in order to prevent fatal opioid overdoses; and

22 5. Enter into agreements with other state, local or private
23 entities as necessary to carry out the duties of the Opioid Overdose
24 Fatality Review Board.

1 B. In carrying out its duties and responsibilities, the Board
2 shall:

3 1. Promulgate rules establishing criteria for identifying cases
4 involving an opioid overdose death subject to specific, in-depth
5 review by the Board;

6 2. Conduct a specific case review of those cases where the
7 cause of death is or may be related to licit or illicit use of
8 opioid drugs;

9 3. Establish and maintain statistical information related to
10 opioid overdose deaths including, but not limited to, demographic
11 and medical diagnostic information;

12 4. Establish procedures for obtaining initial information
13 regarding opioid overdose deaths from law enforcement agencies;

14 5. Review the policies, practices and procedures of the medical
15 system and law enforcement system and make specific recommendations
16 to the entities comprising the medical and law enforcement systems
17 for actions necessary for the improvement of the system;

18 6. Review the extent to which medical and law enforcement
19 systems are working together and evaluate whether the state is
20 efficiently discharging its drug overdose prevention
21 responsibilities;

22 7. Request and obtain a copy of all records and reports
23 pertaining to an adult whose case is under review including, but not
24 limited to:

- 1 a. the report of the medical examiner,
- 2 b. hospital records,
- 3 c. school records,
- 4 d. court records,
- 5 e. prosecutorial records,
- 6 f. local, state and federal law enforcement records
- 7 including, but not limited to, the Oklahoma State
- 8 Bureau of Investigation (OSBI) and Oklahoma State
- 9 Bureau of Narcotics and Dangerous Drugs Control (OBN),
- 10 g. fire department records,
- 11 h. State Department of Health records, including birth
- 12 certificate records,
- 13 i. medical and dental records,
- 14 j. Department of Mental Health and Substance Abuse
- 15 Services and other mental health records,
- 16 k. emergency medical service records, and
- 17 l. files of the Department of Human Services.

18 Confidential information provided to the Board shall be maintained
19 by the Board in a confidential manner as otherwise required by state
20 and federal law. Any person damaged by disclosure of such
21 confidential information by the Board or its members which is not
22 authorized by law may maintain an action for damages, costs and
23 attorney fees pursuant to The Governmental Tort Claims Act;

1 8. Maintain all confidential information, documents and records
2 in possession of the Board as confidential and not subject to
3 subpoena or discovery in any civil or criminal proceedings; provided
4 however, information, documents and records otherwise available from
5 other sources shall not be exempt from subpoena or discovery through
6 those sources solely because such information, documents and records
7 were presented to or reviewed by the Board;

8 9. Conduct reviews of specific cases of opioid overdose deaths
9 and request the preparation of additional information and reports as
10 determined to be necessary by the Board including, but not limited
11 to, clinical summaries from treating physicians, chronologies of
12 contact and second-opinion autopsies;

13 10. Report, if recommended by a majority vote of the Board, to
14 the Governor, the President Pro Tempore of the Senate and the
15 Speaker of the House of Representatives any gross neglect of duty by
16 any state officer or state employee or any problem within the
17 medical and law enforcement system discovered by the Board while
18 performing its duties; and

19 11. Exercise all incidental powers necessary and proper for the
20 implementation and administration of the Opioid Overdose Fatality
21 Review Board.

22 C. The review and discussion of individual cases of an opioid
23 overdose death shall be conducted in executive session. All other
24 business shall be conducted in accordance with the provisions of the

1 Oklahoma Open Meeting Act. All discussions of individual cases and
2 any writings produced by or created for the Board in the course of
3 determining a remedial measure to be recommended by the Board, as
4 the result of a review of an individual case of an opioid overdose
5 death, shall be privileged and shall not be admissible in evidence
6 in any proceeding. The Board shall periodically conduct meetings to
7 discuss organization and business matters and any actions or
8 recommendations aimed at improvement of the medical system or law
9 enforcement system which shall be subject to the Oklahoma Open
10 Meeting Act. Part of any meeting of the Board may be specifically
11 designated as a business meeting of the Board subject to the
12 Oklahoma Open Meeting Act.

13 D. The Board shall submit an annual statistical report on the
14 incidence and causes of opioid overdose deaths in this state for
15 which the Board has completed its review during the past calendar
16 year including its recommendations, if any, to the medical and law
17 enforcement system. The Board shall also prepare and make available
18 to the public, on an annual basis, a report containing a summary of
19 the activities of the Board relating to the review of opioid
20 overdose deaths, the extent to which the state medical and law
21 enforcement system is coordinated and an evaluation of whether the
22 state is efficiently discharging its responsibilities to prevent
23 opioid overdose deaths. The report shall be completed no later than
24 February 1 of the subsequent year.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-1002 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Opioid Overdose Fatality Review Board shall be composed
5 of eighteen (18) members, or their designees, as follows:

6 1. Eight of the members shall be:

7 a. the Attorney General,

8 b. the Chief Medical Examiner,

9 c. the State Commissioner of Health,

10 d. the Chief of Injury Prevention Services of the State
11 Department of Health,

12 e. the President of the Oklahoma State Medical
13 Association,

14 f. the Director of the Oklahoma State Bureau of Narcotics
15 and Dangerous Drugs Control,

16 g. the Commissioner of the Department of Mental Health
17 and Substance Abuse Services, and

18 h. the President of the Oklahoma Osteopathic Association.

19 2. Ten of the members shall be appointed by the Attorney
20 General, shall serve for terms of two (2) years and shall be
21 eligible for reappointment. The members shall be persons having
22 training and experience in matters related to opioid abuse and
23 prevention. The appointed members shall include:

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- 1 a. a county sheriff selected from a list of three names
2 submitted by the executive board of the Oklahoma
3 Sheriffs' Association,
- 4 b. a chief of a municipal police department selected from
5 a list of three names submitted by the Oklahoma
6 Association of Chiefs of Police,
- 7 c. an attorney licensed in this state who is in private
8 practice selected from a list of three names submitted
9 by the Board of Governors of the Oklahoma Bar
10 Association,
- 11 d. a district attorney selected from a list of three
12 names submitted by the District Attorneys Council,
- 13 e. a physician with emergency medical training selected
14 from a list of three names submitted by the Oklahoma
15 State Medical Association,
- 16 f. a physician with experience in drug addiction
17 treatment and recovery selected from a list of three
18 names submitted by the Oklahoma Osteopathic
19 Association,
- 20 g. a nurse selected from a list of three names submitted
21 by the Oklahoma Nurses Association,
- 22 h. two individuals, at least one of whom shall be a
23 person in recovery from an addiction to licit or
24 illicit opioids, selected from a list of three names

1 submitted by the Oklahoma Department of Mental Health
2 and Substance Abuse Services, and

- 3 i. a member of the Judiciary selected from a list of
4 three names submitted by the Oklahoma Supreme Court.

5 B. Every two (2) years the Board shall elect from among its
6 membership a chair and a vice-chair. The Board shall meet at least
7 quarterly and may meet more frequently as necessary as determined by
8 the chair. Members shall serve without compensation but may be
9 reimbursed for necessary travel out of funds available to the Office
10 of the Attorney General pursuant to the State Travel Reimbursement
11 Act; provided, that the reimbursement shall be paid in the case of
12 state employee members by the agency employing the member.

13 C. With funds appropriated or otherwise available for that
14 purpose, the Office of the Attorney General shall provide
15 administrative assistance and services to the Opioid Overdose
16 Fatality Review Board.

17 SECTION 3. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 2-1003 of Title 63, unless there
19 is created a duplication in numbering, reads as follows:

20 A. Beginning November 1, 2018, the Center for Health Statistics
21 of the Department of Health shall forward to the Office of the Chief
22 Medical Examiner on a monthly basis copies of all death certificates
23 of persons over eighteen (18) years of age received by the Center
24 for Health Statistics during the preceding month whereby the cause

1 of death was due to an overdose of licit or illicit drugs including
2 opioids.

3 B. The Office of Chief Medical Examiner shall conduct an
4 initial review of overdose death certificates in accordance with the
5 criteria established by the Opioid Overdose Fatality Review Board
6 and refer to the Board those cases that meet the criteria
7 established by the Board for specific case review.

8 C. Upon the request of the Board, every entity within the
9 medical and law enforcement system shall provide to the Board any
10 information requested by the Board.

11 SECTION 4. This act shall become effective November 1, 2018.

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13 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03/01/2018 - DO
14 PASS, As Amended and Coauthored.

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