

1 **SENATE FLOOR VERSION**

2 April 11, 2018

3 **AS AMENDED**

4 ENGROSSED HOUSE
5 BILL NO. 2798

6 By: Downing, McCall, Sanders,
7 West (Tammy), Blancett,
8 Bush, Frix and O'Donnell of
9 the House

10 and

11 Griffin of the Senate

12
13
14 **[public health and safety - Opioid Overdose Fatality
15 Review Board - codification - effective date]**

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

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

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

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

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

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

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

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

10 B. In carrying out its duties and responsibilities, the Board
11 shall:

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

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

18 3. Establish and maintain statistical information related to
19 opioid overdose deaths including, but not limited to, demographic
20 and medical diagnostic information;

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

23 5. Review the policies, practices and procedures of the medical
24 system and law enforcement system and make specific recommendations

1 to the entities comprising the medical and law enforcement systems
2 for actions necessary for the improvement of the system;

3 6. Review the extent to which medical and law enforcement
4 systems are working together and evaluate whether the state is
5 efficiently discharging its drug overdose prevention
6 responsibilities;

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

- 10 a. the report of the medical examiner,
- 11 b. hospital records,
- 12 c. school records,
- 13 d. court records,
- 14 e. prosecutorial records,
- 15 f. local, state and federal law enforcement records
16 including, but not limited to, the Oklahoma State
17 Bureau of Investigation (OSBI) and Oklahoma State
18 Bureau of Narcotics and Dangerous Drugs Control (OBN),
- 19 g. fire department records,
- 20 h. State Department of Health records, including birth
21 certificate records,
- 22 i. medical and dental records,
- 23 j. Department of Mental Health and Substance Abuse
24 Services and other mental health records,

1 k. emergency medical service records, and

2 l. files of the Department of Human Services.

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

9 8. Maintain all confidential information, documents and records
10 in possession of the Board as confidential and not subject to
11 subpoena or discovery in any civil or criminal proceedings; provided
12 however, information, documents and records otherwise available from
13 other sources shall not be exempt from subpoena or discovery through
14 those sources solely because such information, documents and records
15 were presented to or reviewed by the Board;

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

21 10. Report, if recommended by a majority vote of the Board, to
22 the Governor, the President Pro Tempore of the Senate and the
23 Speaker of the House of Representatives any gross neglect of duty by
24 any state officer or state employee or any problem within the

1 medical and law enforcement system discovered by the Board while
2 performing its duties; and

3 11. Exercise all incidental powers necessary and proper for the
4 implementation and administration of the Opioid Overdose Fatality
5 Review Board.

6 C. The review and discussion of individual cases of an opioid
7 overdose death shall be conducted in executive session. All other
8 business shall be conducted in accordance with the provisions of the
9 Oklahoma Open Meeting Act. All discussions of individual cases and
10 any writings produced by or created for the Board in the course of
11 determining a remedial measure to be recommended by the Board, as
12 the result of a review of an individual case of an opioid overdose
13 death, shall be privileged and shall not be admissible in evidence
14 in any proceeding. The Board shall periodically conduct meetings to
15 discuss organization and business matters and any actions or
16 recommendations aimed at improvement of the medical system or law
17 enforcement system which shall be subject to the Oklahoma Open
18 Meeting Act. Part of any meeting of the Board may be specifically
19 designated as a business meeting of the Board subject to the
20 Oklahoma Open Meeting Act.

21 D. The Board shall submit an annual statistical report on the
22 incidence and causes of opioid overdose deaths in this state for
23 which the Board has completed its review during the past calendar
24 year including its recommendations, if any, to the medical and law

1 enforcement system. The Board shall also prepare and make available
2 to the public, on an annual basis, a report containing a summary of
3 the activities of the Board relating to the review of opioid
4 overdose deaths, the extent to which the state medical and law
5 enforcement system is coordinated and an evaluation of whether the
6 state is efficiently discharging its responsibilities to prevent
7 opioid overdose deaths. The report shall be completed no later than
8 February 1 of the subsequent year.

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

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

14 1. Eight of the members shall be:

15 a. the Attorney General,

16 b. the Chief Medical Examiner,

17 c. the State Commissioner of Health,

18 d. the Chief of Injury Prevention Services of the State
19 Department of Health,

20 e. the President of the Oklahoma State Medical
21 Association,

22 f. the Director of the Oklahoma State Bureau of Narcotics
23 and Dangerous Drugs Control,

24

1 g. the Commissioner of the Department of Mental Health
2 and Substance Abuse Services, and

3 h. the President of the Oklahoma Osteopathic Association;
4 and

5 2. Ten of the members shall be appointed by the Attorney
6 General, shall serve for terms of two (2) years and shall be
7 eligible for reappointment. The members shall be persons having
8 training and experience in matters related to opioid abuse and
9 prevention. The appointed members shall include:

10 a. a county sheriff selected from a list of three names
11 submitted by the executive board of the Oklahoma
12 Sheriffs' Association,

13 b. a chief of a municipal police department selected from
14 a list of three names submitted by the Oklahoma
15 Association of Chiefs of Police,

16 c. an attorney licensed in this state who is in private
17 practice selected from a list of three names submitted
18 by the Board of Governors of the Oklahoma Bar
19 Association,

20 d. a district attorney selected from a list of three
21 names submitted by the District Attorneys Council,

22 e. a physician with emergency medical training selected
23 from a list of three names submitted by the Oklahoma
24 State Medical Association,

1 f. a physician with experience in drug addiction
2 treatment and recovery selected from a list of three
3 names submitted by the Oklahoma Osteopathic
4 Association,

5 g. a nurse selected from a list of three names submitted
6 by the Oklahoma Nurses Association,

7 h. two individuals, at least one of whom shall be a
8 person in recovery from an addiction to licit or
9 illicit opioids, selected from a list of three names
10 submitted by the Oklahoma Department of Mental Health
11 and Substance Abuse Services, and

12 i. a member of the Judiciary selected from a list of
13 three names submitted by the Oklahoma Supreme Court.

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

22 C. With funds appropriated or otherwise available for that
23 purpose, the Office of the Attorney General shall provide
24

1 administrative assistance and services to the Opioid Overdose
2 Fatality Review Board.

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

6 A. Beginning November 1, 2018, the Center for Health Statistics
7 of the Department of Health shall forward to the Office of the Chief
8 Medical Examiner on a monthly basis copies of all death certificates
9 of persons over eighteen (18) years of age received by the Center
10 for Health Statistics during the preceding month whereby the cause
11 of death was due to an overdose of licit or illicit drugs including
12 opioids **meeting the Center for Disease Control guidelines for opioid**
13 **related deaths.**

14 B. The Office of Chief Medical Examiner shall conduct an
15 initial review of overdose death certificates in accordance with the
16 criteria established by the Opioid Overdose Fatality Review Board
17 and refer to the Board those cases that meet the criteria
18 established by the Board for specific case review.

19 C. Upon the request of the Board, every entity within the
20 medical and law enforcement system shall provide to the Board any
21 information requested by the Board.

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

23 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
24 April 11, 2018 - DO PASS AS AMENDED