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Legal Mapping of Overdose Fatality Review Committees and Prescription Drug Monitoring Programs

2024

CDC has highlighted the staggering 107,941 drug overdose deaths in 2022 with a similar number predicted when 2023 data analysis is complete. While provisional data suggest that overdose deaths could be leveling off, disparities continue to widen among certain populations such as Black/Non-Hispanic and American Indian, Alaska Native/Non-Hispanic persons.

As the epidemic evolves, substances such as xylazine, nitazenes, and medetomidine are increasingly found in the drug supply and involved in overdose deaths. In this dynamic landscape, state and territorial health agencies (S/THAs) may consider formalizing or otherwise expanding overdose surveillance strategies like overdose fatality review (OFR) committees, which can help policymakers understand who is at risk of overdose and identify effective systems-level interventions. S/THAs may also consider modifying prescription drug monitoring program (PDMP) requirements to ensure new opioid prescriptions will not put a patient at a heightened risk for overdose. These data-driven systems can prevent future overdose-related harm.

ASTHO, with support from CDC, developed an interactive resource visualizing state and territorial laws as of January 1, 2023, related to OFR committees and select PDMP requirements. The committee considered the following questions:

- Do jurisdictions establish OFRs in law (statute or regulation)?
- Who is required to be on an OFR committee?
- Does jurisdictional law allow the OFR to access PDMP information?
- Does the law require prescribers to check PDMPs before prescribing opioids?
- Does the law require incorporation of naloxone dispensing data into PDMPs?
- Can a provider be penalized for not using the PDMP as required under law?
- Does the law require noncompliance to be reported to a licensing authority?

Overdose Fatality Reviews

OFRs examine the circumstances around overdose deaths, to help identify preventable risk factors and understand circumstances around the death. Historically, fatality review processes have been utilized to address maternal mortality, child fatality, and deaths by suicide. For example, Michigan's Child Death Review Program leveraged this experience to launch the Michigan Overdose Fatality Review in 2020, beginning the work in pilot counties identified as having the highest need. OFRs can prevent overdose deaths by compiling resources from a variety of agencies and sectors and promoting shared accountability for monitoring overdose death data and sharing recommendations to reduce overdose death. OFRs are typically a multidisciplinary team that may include coroners or medical examiners, first responders, case workers, family members of the decedent, people with lived experience, public health, and others. Upon completion of the fatality review, an OFR team may draft data-driven recommendations for the community to consider or implement to prevent overdose deaths. Additionally, OFRs may be able to quickly provide context and a better understanding around emerging drug and overdose trends such as xylazine.

OFRs can exist at all levels of government—city, county, or state—and occur through various methods, from informal multi-disciplinary collaboration to formal review committees required by executive order, statute, or regulation. For this resource, ASTHO explored OFR committees established by law and found that—as of January 1, 2023—16 jurisdictions had OFR committees or teams established in statute or regulation, and two jurisdictions authorized OFR panels through executive order. Approaches varied among jurisdictions, with North Dakota establishing a drug fatality review panel in connection with the University of North Dakota, and Maine creating an accidental drug overdose review panel within the Office of the Attorney General. Some jurisdictions explicitly address local (e.g., county-based) overdose review teams, including New Jersey, Ohio, Maryland, and Indiana.

Most jurisdictions required multidisciplinary membership on OFR committees, though ASTHO specifically explored whether the following members were required: Medical examiner or coroner, law enforcement, healthcare provider, community member, and peer support specialist. The most commonly required member was a law enforcement representative in 14 jurisdictions, followed by a medical examiner or coroner in 11 jurisdictions.

Often, an OFR team needs additional context about a fatality, such as a decedent's opioid prescription history. OFR teams can use PDMP data to better inform recommendations about controlled substance prescribing practices and gain additional insight into prescription involved overdose deaths. As of January 1, 2023, 14 jurisdictions allowed OFR committees to access PDMP information as part of their inquiry.

Prescription Drug Monitoring Programs

PDMPs track the prescribing and dispensing of controlled substances and operate in all 50 states, Washington, D.C., Guam, Puerto Rico and the Northern Mariana Islands. PDMPs provide clinicians with timely information about patients who may be at risk of overdose, and providers can use this information to talk with patients about risks and precautions, especially if there are overlapping opioid prescriptions, risky medication combinations (e.g., opioids and benzodiazepines), or if the patient is seeing multiple clinicians without a coordinated care plan.

The 2022 CDC Guideline for Prescribing Opioids for Pain recommends that clinicians check the PDMP when prescribing initial opioid therapy for acute, subacute, or chronic pain, and periodically during opioid therapy for chronic pain. Doing so allows clinicians to have more informed discussions with patients and improve patient care and safety. PDMP information can be particularly helpful when no other medication history is available for a patient.

Additionally, the Support Act directed states to require Medicaid providers to check the PDMP before prescribing a controlled substance to a Medicaid recipient. As of January 1, 2023, 50 jurisdictions had laws requiring prescribers to check the PDMP before prescribing an opioid medication.

Utilizing PDMPs also allows providers to educate patients about overdose risk, including the role of naloxone, the opioid antagonist that can reverse an opioid overdose. Some jurisdictions also incorporate naloxone data into the PDMP and include a requirement for providers that dispense opioid antagonists to report information similarly to other monitored drugs (e.g., controlled substances). As of January 1, 2023, 13 jurisdictions required that naloxone dispensing information be included in the PDMP. Some states such as Nebraska track all dispensed prescriptions, while others such as Massachusetts and Arizona have varying requirements for the amount and type of naloxone dispensing data required.

ASTHO also explored penalties related to PDMP use and access. Nearly all (50) jurisdictions have provider penalties for not using PDMPs as required by law. These penalties may include fines, the possibility of a referral to licensing bodies or law enforcement, and criminal and civil liability. Mandatory referrals to licensing boards or bodies were less common in comparison, with 21 jurisdictions requiring such a referral by law.

Conclusion

CDC data suggest that the rate of overdose fatalities may be slowing. However, overdose deaths remain high with a 12-month provisional count of 102,384 overdose deaths reported as of January 2024. S/THAs have developed and implemented strong overdose surveillance and prevention strategies, such as the use of PDMPs and OFRs, and expanding these strategies and programs may improve fatal and nonfatal overdose outcomes. S/THAs can consider integrating the PDMP with electronic health records to increase access and ease of use amongst clinicians and their delegates, standardizing PDMP data sharing across state lines, and increasing data linkage to other sources to allow for targeted research and overdose prevention efforts. Further, S/THAs may consider standardizing OFR processes and procedures for team alignment and increased collaboration among public health and public safety partners and implement a training guide, based on OFR national standards, to establish or refine OFR practices. By implementing OFRs and PDMP enhancements, S/THAs can work toward preventing overdose fatalities and improve health outcomes for people who use drugs.