

Senate Bill No. 283

(By Senators Laird, Miller, Stollings, Unger, Jenkins, Foster,
Plymale, Klempa, Yost and Kessler (Acting President))

[Introduced January 26, 2011; referred to the Committee on Health
and Human Resources; and then to the Committee on the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new article, designated §61-12A-1, §61-12A-
2, §61-12A-3 and §61-12A-4, all relating to the creation of
the Unintentional Pharmaceutical Drug Overdose Fatality
Review Team; setting forth membership of the team; setting
forth responsibilities of the team; requiring the
examination and provision of preventative education in cases
that involve unintentional pharmaceutical drug overdose
deaths; requiring other state agencies to cooperate with the
team; and granting rule-making authority.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended
by adding thereto a new article, designated §61-12A-1, §61-12A-2,
§61-12A-3 and §61-12A-4, all to read as follows:

ARTICLE 12A. UNINTENTIONAL PHARMACEUTICAL DRUG OVERDOSE

1 **FATALITY** **REVIEW TEAM.**

2 **§61-12A-1. Legislative findings.**

3 The Legislature finds:

4 (1) That pharmaceutical drug abuse and addiction has become
5 an increasingly serious public health and law enforcement problem
6 throughout the State of West Virginia, affecting the quality of
7 life in the communities in which we live;

8 (2) That the increased and growing number of unintentional
9 overdose deaths associated with the nonmedical use and diversion
10 of pharmaceutical drugs, primarily opioid analgesics, is
11 unacceptable and requires further public policy consideration and
12 action;

13 (3) That problems related to pharmaceutical drug abuse and
14 addiction, the nonmedical use and diversion of pharmaceutical
15 drugs, and unintentional pharmaceutical drug overdose deaths are
16 complex problems requiring multidisciplinary review, study and
17 planning to assist in the identification and further development
18 of public policies intended to address these problems in the
19 future.

20 **§61-12A-2. Unintentional Pharmaceutical Drug Overdose Fatality**

21 **Review Team.**

22 (a) The Unintentional Pharmaceutical Drug Overdose Fatality
23 Review Team is hereby created under the office of the chief
24 medical examiner. The Unintentional Pharmaceutical Drug Overdose

1 Fatality Review Team is a multidisciplinary team created to
2 examine, review
3 and analyze the deaths of all persons in the State of West
4 Virginia who die as a result of unintentional prescription or
5 pharmaceutical drug overdoses.

6 (b) The Unintentional Pharmaceutical Drug Overdose Fatality
7 Review Team shall consist of the following members appointed by
8 the Governor:

9 (1) The Chief Medical Examiner in the Bureau for Public
10 Health, who is to serve as the chairperson and who is responsible
11 for calling and coordinating all meetings;

12 (2) The Director of the West Virginia State Board of
13 Pharmacy or his or her designee;

14 (3) The Commissioner of the Bureau for Public Health or his
15 or her designee;

16 (4) The Director of the Division of Vital Statistics or his
17 or her designee;

18 (5) The Superintendent of the West Virginia State Police or
19 his or her designee;

20 (6) One representative who is a physician nominated by the
21 West Virginia State Medical Association;

22 (7) One representative who is a registered nurse nominated
23 by the West Virginia Nurses Association;

24 (8) One representative who is a doctor of osteopathy
25 nominated by the West Virginia Society of Osteopathic Medicine;

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2 (9) One representative who is a county law-enforcement
3 official nominated by the West Virginia Sheriffs' Association;

4 (10) One representative who is a municipal police officer
5 nominated by the West Virginia Chiefs of Police Association;

6 (11) One representative who is a sworn law-enforcement
7 officer assigned to a multijurisdictional drug task force in West
8 Virginia;

9 (12) One representative of the United States Drug
10 Enforcement Administration;

11 (13) One representative who is a prosecuting attorney
12 nominated by the West Virginia Prosecuting Attorneys' Institute;

13 (14) One licensed physician or doctor of osteopathy who
14 practices pain management as a principle part of his or her
15 practice;

16 (15) A person who shall be considered an expert in bio-
17 ethics training;

18 (16) One current member of the West Virginia House of
19 Delegates;

20 (17) One current member of the West Virginia State Senate;
21 and

22 (18) Any additional persons that the chairperson of the team
23 determines is needed in the review and consideration of a
24 particular case.

25 (c) Each member of the Unintentional Pharmaceutical Drug

1 Overdose Fatality Review Team shall serve for a term of three
2 years, unless otherwise reappointed to a second or subsequent
3 term. Members shall continue to serve until their respective
4 terms expire or until their successors have been appointed.

5 (d) Each appointment of a physician, whether for a full term
6 or to fill a vacancy, is to be made by the Governor from among
7 three nominees selected by the West Virginia State Medical
8 Association. Each appointment of a registered nurse, whether for
9 a full term or to fill a vacancy, is to be made by the Governor
10 from among three nominees selected by the West Virginia Nurses
11 Association. Each appointment of a doctor of osteopathy, whether
12 for a full term or to fill a vacancy, is to be made by the
13 Governor from among three nominees selected by the West Virginia
14 Society of Osteopathic Medicine. Each appointment who is a county
15 law enforcement official, whether for a full term or to fill a
16 vacancy, is to be made by the Governor from among three nominees
17 selected by the West Virginia Sheriffs' Association. Each
18 appointment who is a municipal police officer, whether for a full
19 term or to fill a vacancy, is to be made by the Governor from
20 among three nominees selected by the West Virginia Chiefs of
21 Police Association. Each appointment who is a sworn law-
22 enforcement officer assigned to a multijurisdictional drug task
23 force in West Virginia, whether for a full term or to fill a
24 vacancy, is to be made by the Governor from among three nominees
25 selected by the West Virginia Fraternal Order of Police. With

1 respect to all other appointments not specified herein, the
2 Governor may make the appointments without nomination.

3 (e) Each member of the Unintentional Pharmaceutical Drug
4 Overdose Fatality Review Team shall serve without additional
5 compensation and may not be reimbursed for any expenses incurred
6 in the discharge of his or her duties under the provisions of
7 this article.

8 **§61-12A-3. Responsibilities of the Unintentional Pharmaceutical**
9 **Drug Overdose Fatality Review Team.**

10 (a) The Office of the Chief Medical Examiner, in
11 consultation with the Unintentional Pharmaceutical Drug Overdose
12 Fatality Review Team shall propose legislative rules for
13 legislative approval pursuant to article three, chapter twenty-
14 nine-a of this code. Those rules shall include, at a minimum:

15 (1) The standard procedures for the conduct of the
16 Unintentional Pharmaceutical Drug Overdose Fatality Review Team;
17 and

18 (2) The processes and protocols for the review and analysis
19 of unintentional pharmaceutical drug overdoses resulting in
20 fatalities of those who were not suffering from mortal diseases
21 shortly before death.

22 (b) The Unintentional Pharmaceutical Drug Overdose Fatality
23 Review Team shall:

24 (1) Review and analyze all deaths occurring within the State
25 of West Virginia where the cause of death was determined to be

1 due to unintentional pharmaceutical drug overdose, specifically
2 excluding the death of persons suffering from a mortal disease or
3 instances where the manner of the overdose death was suicide;

4 (2) Ascertain and document the trends, patterns and risk
5 factors related to unintentional pharmaceutical drug overdose
6 fatalities occurring within the State of West Virginia;

7 (3) Ascertain and document patterns related to the sale and
8 distribution of pharmaceutical prescriptions by those otherwise
9 licensed to provide said prescriptions, including the application
10 of information included within the database kept and maintained
11 by the West Virginia Board of Pharmacy;

12 (4) Develop and implement standards for the uniform and
13 consistent reporting of unintentional pharmaceutical drug
14 overdose deaths by law enforcement or other emergency service
15 responders;

16 (5) Provide statistical information and analysis regarding
17 the causes of unintentional pharmaceutical drug overdose
18 fatalities; and

19 (6) Promote public awareness of the incidence and causes of
20 unintentional pharmaceutical drug overdose fatalities, including
21 recommendations for their reduction.

22 (c) The Unintentional Pharmaceutical Drug Overdose Fatality
23 Review Team shall submit an annual report to the Governor and to
24 the Legislature concerning its activities within the state. The
25 report is due annually on December 1. The report is to include

1 statistical information concerning cases reviewed during the
2 year, trends and patterns concerning these cases, and the team's
3 recommendations to reduce the number of unintentional
4 pharmaceutical drug overdose fatalities in the state.

5 (d) The Unintentional Pharmaceutical Drug Overdose Fatality
6 Review Team, in the exercise of its duties as defined in this
7 section, may not:

8 (1) Call witnesses or take testimony from individuals
9 involved in the investigation of a pharmaceutical drug overdose
10 fatality;

11 (2) Contact a family member of the deceased;

12 (3) Enforce any public health standard or criminal law or
13 otherwise participate in any legal proceeding; or

14 (4) Otherwise take any action which in the determination of
15 a prosecuting attorney or his or her assistants, impairs the
16 ability of the prosecuting attorney, his or her assistants or any
17 law-enforcement officer to perform his or her statutory duties.

18 (e) Except as otherwise provided in this article or by order
19 of the court, all records and information concerning proceedings,
20 records and opinions of the Unintentional Pharmaceutical Drug
21 Overdose Fatality Review Team are confidential. This subsection
22 may not be construed to limit or restrict the right to discover
23 or use in any civil or criminal proceeding anything that is
24 available from another source and entirely independent of the
25 proceedings of the Unintentional Pharmaceutical Drug Overdose

1 Fatality Review Team.

2 (f) Members of the Unintentional Pharmaceutical Drug
3 Overdose Fatality Review Team may not be questioned in any civil
4 or criminal proceeding regarding information presented in or
5 opinions formed as a result of a meeting of the team. This
6 subsection may not be construed to prevent a member of the
7 Unintentional Pharmaceutical Drug Overdose Fatality Review Team
8 from testifying to information obtained independently of the team
9 or which is public information.

10 **§61-12A-4. Other agencies of government required to cooperate.**

11 State, county and local agencies, hospitals and other health
12 agencies shall provide the Unintentional Pharmaceutical Drug
13 Overdose Fatality Review Team with any information requested in
14 writing by the team as allowable by law and upon receipt of a
15 certified copy of the circuit court's order directing said
16 agencies to release information in its possession relating to the
17 deceased. The team shall assure that all information received and
18 developed in connection with this article remain confidential.

NOTE: The purpose of this bill is to create the Unintentional Pharmaceutical Drug Overdose Fatality Review Team. The bill sets forth membership of the team and its responsibilities. The bill requires the examination and the providing of preventative education in cases that involve unintentional pharmaceutical drug overdose deaths. The bill requires other state agencies to cooperate with the team. The bill also grants rulemaking authority.

This article is new; therefore, strike-throughs and underscoring have been omitted.

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