69 CSR 14
Department of Health and Human Resources
Office of Drug Control Policy
COLLECTION AND EXCHANGE OF DATA RELATED TO OVERDOSES

Summary of Public Comments:
The Department notes that many comments received address sections of the rule that have previously received Legislative approval. The majority of the proposed rule is reflective of changes made necessary by statutory amendments passed during the 2019 Regular Legislative Session. The responses below summarize all comments received and the subsequent agency action.

Section 1 – Definitions
Comment
2.9. The definition of "information technology platform" fails to match the clear legislative intent of SB 520 which will result in duplicative reporting for already resource strained agencies.
Response
The Department has reviewed the comment and will propose an amendment to the rule. The amendment will allow for the West Virginia Prehospital Information System (PreMIS) to be a qualified reporting mechanism and will allow for other reporting mechanisms the Office of Drug Control Policy (ODCP) deems appropriate to reduce duplicative and burdensome reporting.

Comment
2.21. We are unable to determine if any information is collected on the reporting entity. Both the type of reporting entity (e.g., hospital, EMS, police, etc.), and reporter within the entity are important quality assurance data to collect.
Response
The Department reviewed this comment no changes were made. An individual experiencing an overdose may encounter one, some, or all the mandatory reporters. The information they provide the ODCP will be from their unique perspective during the overdose response experience and will enhance the ODCP's ability to achieve its statutory purpose.

Section 2 – Exchange of Data and Information
Comment
Individual identifiers are not included in these reports, which will significantly diminish the value of these data for any useful public health tracking.
Response
The Department has reviewed this comment, and no changes were made. The provision is consistent with applicable state and federal laws such as HIPAA.

Comment
There are no apparent provisions for use of the data for legitimate research purposes.
Response
The enacting statute sets forth the ODCP's duties in W. Va. Code §16-5T-2(c). The ODCP is mandated to develop and implement programs for the collection of overdose data. The exchange of data and information with specific state governmental agencies is discretionary, but the collection of data in the furtherance of the ODCP's mission is not. However, the data collected will be used to assess the landscape in West Virginia to further understand the scope of the substance use disorder crisis and to make the necessary accommodations.

Robertson, April L

From:	Coben, Jeffrey <jcoben@hsc.wvu.edu>
Sent:	Thursday, July 4, 2019 11:46 AM
To:	Robertson, April L
Cc:	Hansen, Robert H
Subject:	[External] Fw: Request for Comment: Interested Parties
Attachments:	SKM_80819062110020.pdf

Dear Ms. Robertson,

The proposed rule has been reviewed by several members of the faculty at West Virginia University who have experience and expertise in the collection and use of similar data. The following is a summary of issues that have been identified:

1) It appears that most, if not all, individual identifiers are not included in these reports. This will significantly diminish the value of these data for any useful public health tracking. For example, there will be major challenges 'de-duplicating' these reports. As currently written there will be many situations where there are three (or more) reports for a single overdose: one report from police responding to scene; a second report from EMS responding to scene; and a third report from an ED if the patient is transported to a hospital. Without getting names, birth dates or any other identifying information we will have no way to know whether these are three reports from the same or different overdose events. Similarly, without individual identifiers there will be know way to determine multiple repeat OD's and revivals of the same person over weeks or months. Finally, lack of identifiers will preclude the use of the information for direct patient outreach/case management and will preclude the use of the data for legitimate research purposes (see #3 below).

2) We are unable to determine if any information is collected on the reporting entity. Both the type of reporting entity (e.g., hospital, EMS, police etc.), and reporter within the entity are important quality assurance data to collect.

3) There are no apparent provisions for use of the data for legitimate research purposes. Such research could provide numerous benefits to the state including the identification of geographic hotspots, emerging micro-epidemics, predictive modeling to identify individuals at greatest risk, and evaluating the return-on-investment of different interventions.

Sincerely,

Jeffrey H. Coben, MD
Dean, School of Public Health
Associate Vice President for Health Affairs
West Virginia University

July 15, 2019

April Robertson, General Counsel
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Charleston, WV 25301

april.l.robertson@wv.gov

RE: Opposition to Definitions within 69 CSR 14 Collection and Exchange of Data Related to Overdoses

Dear Ms. Robertson,

The WV EMS Coalition is strongly opposed to 69 CSR 14 Collection and Exchange of Data Related to Overdoses, as drafted, because the definition of "information technology platform" fails to match the clear legislative intent of SB 520 from the 2019 session and the assurances by the Director of the Office of Drug Control Policy to Senators in public testimony and to representatives of the WV EMS Coalition in private discussions.

The updated language in SB 520 section 16-5T-4 states that emergency medical service providers that treat and release, or transports to a medical facility, in response to an emergency call for a suspected or actual overdose of a controlled substance report overdose information via an appropriate ***information technology platform*** within 72 hours after it responds to the incident.

The code proceeds to define ***information technology platform*** specifically as the Washington/Baltimore High Intensity Drug Trafficking Overdose Detection Mapping Application Program or other program identified by the department in rule. The rule revisions proposed in 69 CSR 14 expands the definition of information technology platform to also include Emergency Department Information Exchange (Edie), West Virginia Health Information Network (WVHIN) and West Virginia Overdose Reporting system. West Virginia's EMS providers believe this definition should also include the West Virginia Prehospital Information System (PreMIS).

During the 2019 session during discussions related SB 520, the WV EMS Coalition raised concerns related to the potential requirement for duplicative reporting for already resource strained agencies. West Virginia EMS agencies are required by legislative rule (64CSR48 3.2 Data System) to provide the Office of EMS a complete patient care report (PCR) following the conclusion of providing services to a patient. EMS agencies are required to submit this information to the West Virginia Prehospital Information System (PreMIS). Approved data sets and collection programs are established by the Office of EMS and are certified compliant with the National Emergency Medical System Information System (NEMSIS).

The WV EMS Coalition advocated that the information being sought by SB 520 was already available to the Department of Health and Human Resources within the NEMSIS 3 data submitted by EMS providers through PreMIS. Resource strained ambulance agencies should not be required to submit duplicate data to a second DHHR controlled platform. Members of the Senate Health Committee were sympathetic to these concerns and the Director of the Office of Drug Control Policy, Bob Hansen, assured Senators that it was the intent of the Office to pull the requested data from the existing EMS data platform and to require other mandatory reporters to utilize the Washington/Baltimore High Intensity Drug Trafficking Overdose Detection Mapping Application Program.

A recording of the testimony from the February 21, 2019 Senate Health Committee meeting can be found at the following link:

https://youtu.be/q1xMZ1GIZ1I

Similar testimony was provided to House Health Committee and representatives of the WV EMS Coalition were also privately given assurances that the PreMis system would be included as an approved "information technology platform" within the rule.

Our members strongly believe that all patient care data should be maintained in a single record to avoid errors. Mistakes or inconsistencies can occur when entering patient care records into multiple data platforms. This creates the potential for poor medical outcomes and increased provider liability.

Further, the reporting requirements without the inclusion of the PreMis as an approved "information technology platform" are an unfunded mandate. EMS agencies have already spent hundreds of thousands of dollars in software, equipment and training to comply with the current data reporting requirements to PreMIS without receiving additional offsetting funding from the state. The rule as drafted would require agencies to invest additional time and money to train employees and volunteers on the utilization of a second information technology platform house within the Department of Health and Human Resources.

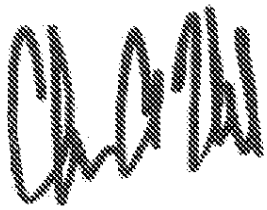
While community response and service is our cornerstone, this is another in a line of mandates EMS has been asked to absorb in response to the state's opioid epidemic without being provided resources to implement. Continually adding new regulatory and reporting requirements is a tremendous burden when you consider the state does not provide any permanent funding to support the availability of EMS in West Virginia like our neighboring states.

The West Virginia EMS Coalition recognizes the information being sought through 16-5T-4 could be a valuable tool in the state's efforts to combat substance use disorder. However, ambulance agencies are unique compared to the other mandatory reporters in this bill, such as law-enforcement, some health providers and other emergency response entities, because of our existing centralized patient care reporting to the state.

Rather than mandating the submission of duplicative reports, the Office of EMS and the Office of Drug Control Policy (both Office within DHHR) should coordinate internally with the state's data contractors to extract the requested information from existing databases. This will allow EMS agencies to focus their limited resources on delivering patient care and saving lives instead of completing extra reports.

I would welcome the opportunity to meet with you to further discuss our concerns and how to achieve the goals of the SB 520 and 69CSR14 without creating any unnecessary and unintended hardship on EMS agencies.

Sincerely,



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