



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: Health TITLE-SERIES: 64-29
RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: Yes
RULE NAME: 64-29 Fatality and Mortality Review Team

PRIMARY CONTACT

NAME: Virginia M Payne
ADDRESS: 350 Capitol Street
Room 702
Charleston, WV 25301
EMAIL: virginia.m.payne@wv.gov
PHONE NUMBER: 304-389-9183

CITE STATUTORY AUTHORITY: W. Va. Code §16-1-4

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

W. Va. Code §61-12A-2(c)

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 7/30/2024

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 8/28/2024

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

N/A

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

This rule establishes standard procedures for the formation and conduct of the Fatality and Mortality Review Team. The Fatality and Mortality Review Team (FMRT) is a multidisciplinary team created to oversee and coordinate the examination, review and assessment of special cases of death where other than natural causes are suspected.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

This rule is being repealed due to amendments to W. Va. Code §61-12A-1 et seq.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

0

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

0

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

0

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2024 Increase/Decrease (use "-")	2025 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Virginia M Payne -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

**TITLE 64
LEGISLATIVE RULE
BUREAU FOR PUBLIC HEALTH**

**SERIES 29
~~FATALITY AND MORTALITY REVIEW TEAM~~**

~~§64-29-1. General.~~

~~— 1.1. Scope—This rule establishes standard procedures for the formation and conduct of the Fatality and Mortality Review Team. The Fatality and Mortality Review Team (FMRT) is a multidisciplinary team created to oversee and coordinate the examination, review and assessment of special cases of death where other than natural causes are suspected. This rule should be read in conjunction with W. Va. Code §61-12A-1, et seq. The W. Va. Code is available in public libraries and on the Legislature's web page, <http://www.legis.state.wv.us/>.~~

~~— 1.2. Authority—W. Va. Code §16-1-4 and §61-12A-2(c)~~

~~— 1.3. Filing Date—~~

~~— 1.4. Effective Date—~~

~~§64-29-2. Application and Enforcement.~~

~~— 2.1. Application—This rule applies to the Fatality and Mortality Review Team and also to four fatality and mortality Advisory Panels set forth WV Code §61-12A-1, et seq. and described in this rule.~~

~~— 2.2. Enforcement—This rule is enforced by the Commissioner and by the Chief Medical Examiner in the Bureau of Public Health.~~

~~§64-29-3. Definitions.~~

~~— 3.1. Bureau—The Bureau for Public Health in Department of Health and Human Resources.~~

~~— 3.2. Child—A person less than eighteen (18) years of age.~~

~~— 3.3. Child Fatality Review Panel (CFRP)—A multidisciplinary group of professionals including representatives from public health, medicine, law and law enforcement, and child welfare that reviews the circumstances surrounding the deaths of children.~~

~~— 3.4. Commissioner—The Commissioner of the Bureau for Public Health or his or her designee.~~

~~— 3.5. Department—The West Virginia Department of Health and Human Resources.~~

~~— 3.6. Domestic violence fatality—An unnatural death precipitated by events surrounding a relationship among individuals who are family or household members as defined in W. Va. Code §48-27-204.~~

~~— 3.7. Domestic Violence Fatality Review Panel (DVFRP)—A multidisciplinary group of professionals including but not limited to representatives from public health, mental health, medicine,~~

law and law enforcement and adult welfare that reviews the circumstances surrounding the deaths of children or adults which may be related to incidents of domestic violence.

~~— 3.8. Domestic violence incident — An unnatural death resulting from an action defined in WV Code §48-27-402 which is reviewed by the panel. The final determination as to whether an incident is a domestic violence fatality shall be made at the time of the panel review.~~

~~— 3.9. Fatality and Mortality Review Team (FMRT) — A multidisciplinary team created to oversee and coordinate the examination, review and assessment of the unexplained, unexpected or unintentional deaths of children, infants, mothers during pregnancy or within one year of giving birth, persons suspected to have died from domestic violence and those who die from an unintentional prescription or pharmaceutical drug overdose.~~

~~— 3.10. Immediate Review — A review of the circumstances surrounding the death of a child that occurs between twenty-four (24) and forty-eight (48) hours following the death of a child.~~

~~— 3.11. Infant and Maternal Mortality Review Panel (IMMRP) — A multidisciplinary group of professionals including representatives from public health and the medical community that review the circumstances surrounding the deaths of infants who die in the first year of life and women who die during pregnancy, at the time of birth or within one year of the birth of a child.~~

~~— 3.12. Infant mortality — Death of a live born infant in the first year of life.~~

~~— 3.13. Incident — An unnatural death reviewed by a panel. The final determination as to whether an incident is a child fatality, domestic violence fatality, infant or maternal fatality or an unintentional pharmaceutical drug overdose fatality shall be made at the time of the panel's review.~~

~~— 3.14. Maternal mortality — Death of a woman during pregnancy, at the time of birth or within one year of the birth of a child from any cause related to or aggravated by pregnancy or its management but not from accidental or incidental causes.~~

~~— 3.15. Review — The process by which all of the facts and circumstances about a deceased child or person suspected to have died due to domestic violence, unintentional pharmaceutical drug overdose or an infant or maternal death are known to members of a panel and are shared and discussed among the members of that panel.~~

~~— 3.16. Unexpected death — The death of a healthy child whose immediate death is not anticipated.~~

~~— 3.17. Unexplained death — The cause and manner of death that cannot be determined after an autopsy and thorough investigation of the circumstances surrounding the death.~~

~~— 3.18. Unintentional pharmaceutical drug overdose — The death of a person from an apparent unintentional drug overdose of either a prescription drug or other pharmaceutical drugs.~~

~~— 3.19. Unintentional Pharmaceutical Drug Overdose Review Panel (UPDORP) — A multidisciplinary panel created to examine, review and analyze the deaths of all persons in the state of West Virginia who die as a result of unintentional prescription or pharmaceutical drug overdoses.~~

~~§64-29-4. Memberships of the Fatality and Mortality Review Team.~~

~~— 4.1. The Chief Medical Examiner (CME) in the Bureau of Public Health, or his or her designee, shall serve as the chairperson and is responsible for calling and coordinating meetings of the FMRT as well as the meetings of the four (4) Advisory Panels described in this rule.~~

~~4.2. In addition to the Chief Medical Examiner there shall be three other members of the FMRT, as follows:~~

~~4.2.a. The Commissioner of the Bureau for Public Health or his or her designee;~~

~~4.2.b. The Superintendent of the West Virginia State Police or his or her designee; and~~

~~4.2.c. A Prosecuting Attorney, who shall be appointed by the Governor and who shall serve for a term of three years and may be reappointed for a second or subsequent term. The prosecuting attorney appointed to the FMRT shall continue to serve until his or her term expires or until his or her successor has been appointed.~~

~~4.3. Each member of the FMRT shall serve without additional compensation and may not be reimbursed for any expenses incurred in the discharge of his or her duties under this rule.~~

~~§64-29-5. Fatality and Mortality Review Team and Advisory Panels.~~

~~5.1. The Fatality and Mortality Review Team shall establish four Advisory Panels to carry out the purposes of the WV Code §61-12A-1, et seq. The members of the FMRT shall serve on each of the Advisory Panels described in this section.~~

~~5.2. The four Advisory Panels shall be set up as follows:~~

~~5.2.a. An Unintentional Pharmaceutical Drug Overdose Review Panel (UPDORP) created to examine, analyze and review deaths from unintentional prescription or pharmaceutical drugs overdoses;~~

~~5.2.b. A Child Fatality Review Panel (CFRP) to examine, analyze and review deaths of children under the age of eighteen years;~~

~~5.2.c. A Domestic Violence Fatality Review Panel (DVFRP) to examine, analyze and review deaths resulting from suspected domestic violence; and~~

~~5.2.d. An Infant and Maternal Mortality Review Panel (IMMRP) to examine, analyze and review the deaths of infants and women who die during pregnancy, at the time of birth or within one year of the birth of a child.~~

~~§64-29-6. Annual Report.~~

~~The Fatality and Mortality Review Team shall submit an annual report to the Governor and to the Legislature Oversight Committee on Health and Human Resources Accountability concerning its activities and the activities of the Advisory Panels. The report is due annually on December 1 and it shall include statistical information concerning cases reviewed during the year, trends and patterns concerning these cases and the panel's recommendations to reduce the number of fatalities and mortalities that occur in the state.~~

~~§64-29-7. Membership and Responsibilities of the Unintentional Pharmaceutical Drug Overdose Review Panel.~~

~~7.1. The Unintentional Pharmaceutical Drug Overdoses Fatality Review Panel (UPDORP) shall consist of the following members appointed by the Fatality and Mortality Review Team:~~

~~7.1.a. The Chief Medical Examiner in the Bureau for Public Health or his or her designee, who is to serve as the chairperson and who is responsible for calling and coordination all meetings;~~

~~7.1.b. The Director of the West Virginia State Board of Pharmacy or his or her designee;~~

~~7.1.c. The Commissioner of the Bureau for Public Health or his or her designee;~~

~~7.1.d. The Director of the Division of Vital Statistics or his or her designee;~~

~~7.1.e. The Superintendent of the West Virginia State Police or his or her designee;~~

~~7.1.f. One representative who is a physician nominated by the West Virginia State Medical Association. Each appointment of a physician, whether for a full term or to fill a vacancy, is to be made by the FMRT from among three nominees selected by the West Virginia State Medical Association;~~

~~7.1.g. One representative who is a registered nurse nominated by the West Virginia Nurses Association. Each appointment of a registered nurse, whether for a full term or to fill a vacancy, is to be made by the FMRT from among three nominees selected by the West Virginia Nurses Association;~~

~~7.1.h. One representative who is a doctor of osteopathy nominated by the West Virginia Society of Osteopathic Medicine. Each appointment of a doctor of osteopathy, whether for a full term or to fill a vacancy, is to be made by the FMRT from among three nominees selected by the West Virginia Society of Osteopathic Medicine;~~

~~7.1.i. One licensed physician or doctor of osteopathy who practices pain management as a principal part of his or her practice;~~

~~7.1.j. One representative who is a doctor of pharmacy, with a background in prescription drug abuse and diversion, selected by the West Virginia Pharmacists Association;~~

~~7.1.k. One representative who is a licensed counselor selected by the West Virginia Association of Alcoholism and Drug Abuse Counselors;~~

~~7.1.l. One representative of the United States Drug Enforcement Administration;~~

~~7.1.m. One representative who is a prosecuting attorney selected by the West Virginia Prosecuting Attorneys Institute;~~

~~7.1.n. A person who is considered an expert in bio-ethics training;~~

~~7.1.o. One representative who is a licensed dentist recommended by the Board of Dental Examiners. Each appointment of a dentist, whether for a full term or to fill a vacancy, is to be made by the FMRT from among three nominees selected by the West Virginia Dental Association; and~~

~~7.1.p. Any additional persons that the chairperson of the panel determines is needed in the review and consideration of a particular case.~~

~~7.2. The FMRT may make appointments without nomination for all representatives identified in subsection 7.1. of this section where a list of nominees is not required.~~

~~7.3. Each member of the Unintentional Pharmaceutical Drug Overdose Fatality Review Panel shall serve for a term of three years, unless otherwise reappointed to a second or subsequent term.~~

~~Members shall continue to serve until their respective terms expire or until their successors have been appointed.~~

~~7.4. Each member of the Unintentional Pharmaceutical Drug Overdose Fatality Review Panel shall serve without additional compensation and may not be reimbursed for any expenses incurred in discharge of his or her duties under the provisions of this article.~~

~~7.5. The Unintentional Pharmaceutical Drug Overdose Review Panel shall:~~

~~7.5.a. Review and analyze all deaths occurring within the State of West Virginia where the cause of death was determined to be due to unintentional pharmaceutical drug overdose, specifically excluding the death of persons suffering from a mortal disease or instances where the manner of the overdose death was suicide;~~

~~7.5.b. Ascertain and document the trends, patterns and risk factors related to unintentional pharmaceutical drug overdose fatalities occurring within the State of West Virginia;~~

~~7.5.c. Ascertain and document patterns related to the sale and distribution of pharmaceutical prescriptions by those otherwise licensed to provide said prescriptions, including the application of information included within the Controlled Substances Monitoring Program database kept and maintained by the West Virginia Board of Pharmacy;~~

~~7.5.d. Develop and implement standards for the uniform and consistent reporting of unintentional pharmaceutical drug overdose deaths by law enforcement or other emergency service responders; and~~

~~7.5.e. Provide statistical information and analysis regarding the causes of unintentional pharmaceutical drug overdose fatalities.~~

~~7.6. The Unintentional Pharmaceutical Drug Overdose Review Panel, in the exercise of its duties as defined in this section, may not:~~

~~7.6.a. Call witnesses or take testimony from individuals involved in the investigation of pharmaceutical drug overdose fatality;~~

~~7.6.b. Contact a family member of the deceased;~~

~~7.6.c. Enforce any public health standard or criminal law or otherwise participate in any legal proceeding; or~~

~~7.6.d. Otherwise take any action which, in the determination of a prosecuting attorney or his or her assistants, impairs the ability of the prosecuting attorney, his or her assistants or any law enforcement officer to perform his or her statutory duties.~~

~~7.7. The Unintentional Pharmaceutical Drug Overdose Review Panel may request information and records as necessary to carry out its responsibilities. Records and information that may be requested under this section include:~~

~~7.7.a. Medical, dental and mental health records;~~

~~7.7.b. Substance abuse records to extent allowed by federal law; and~~

~~7.7.c. Information and records maintained by any state, county and local government agency, except as provided in subdivision 7.6.d. of this rule.~~

~~7.8. State, county and local government agencies shall provide the Unintentional Pharmaceutical Drug Overdose Review Panel with any information requested in writing by the panel.~~

~~§64-29-8. Responsibilities of Child Fatality Review Panel.~~

~~The CFRP shall perform reviews of deaths of all children who were residents of the State of West Virginia at the time of death, regardless of the place of death, with the objective of identifying casual patterns in child fatalities.~~

~~§64-29-9. Conduct and Membership of the Child Fatality Review Panel.~~

~~9.1. The current membership of the CFRP shall remain effective and authorized to carry out the duties described in this rule and the authorizing statute. Any vacancies shall be filled by nomination from the Fatality and Mortality Review Team. The CFRP shall meet monthly. The CFRP shall be comprised of the following members, appointed for three year terms:~~

~~9.1.a. The Chief Medical Examiner, who shall serve as Chairperson of the Panel and is responsible for calling and coordination the meetings;~~

~~9.1.b. Two prosecuting attorneys or their designees;~~

~~9.1.c. The State Superintendent of the State Police or his or her designee;~~

~~9.1.d. One law enforcement official who is not a member of the WV State Police;~~

~~9.1.e. One child protective services worker currently employed in investigating reports of child abuse and neglect;~~

~~9.1.f. One physician, specializing in the practice of pediatric or family medicine;~~

~~9.1.g. One social worker who may be employed in the area of public health;~~

~~9.1.h. The Director of the Office of Maternal, Child and Family Health in the Department of Health and Human Resources or his or her designee;~~

~~9.1.i. The Director of Children's Mental Health Services in the Bureau for Behavioral Health and Health Facilities or his or her designee;~~

~~9.1.j. The Director of the Office of Social Services in the Bureau for Children and Families or his or her designee;~~

~~9.1.k. The Superintendent of the Department of Education or his or her designee;~~

~~9.1.l. The Director of the Division of Juvenile Services or his or her designee; and~~

~~9.1.m. The President of the West Virginia Association of School Nurses or his or her designee.~~

~~— 9.2. The chairperson of the panel shall appoint persons to vacancies on the CFRP on an interim basis, while awaiting completion of the nomination and appointment process by the FMRT. Members may be re-appointed at the expiration of the three year term.~~

~~— 9.3. The chairperson of the CFRP, or his or her designee, and the panel members shall review death certificates of children sent monthly by the Office of Vital Statistics and shall determine which deaths are unexpected or unexplained.~~

~~— 9.4. Each member of the CFRP shall examine the records of his or her agency to determine if the child, or the child's parents or guardians, have received services at his or her agency, and if necessary, may contact other agencies to complete the review.~~

~~— 9.5. Panel members shall present to the rest of the CFRP the information obtained from the record Reviews, but shall retain the documents in each's agency's files.~~

~~— 9.6. All documents regarding a particular case that are reviewed by the CFRP shall be destroyed by the CFRT after the publication of the FMRT annual report in which that case date is included.~~

~~§64 29 10. Responsibilities of Domestic Violence Fatality Review Panel.~~

~~— The DVFRP shall perform reviews of all suspected domestic violence deaths occurring in the State of West Virginia.~~

~~§64 29 11. Conduct and Membership of Domestic Violence Fatality Review Panel.~~

~~— 11.1. The DVFRP shall meet as needed to fulfill its mission, but no less frequently than quarterly.~~

~~— 11.2. The DVFRP shall be comprised of the following members:~~

~~— 11.2.a. The Chief Medical Examiner, who shall serve as the chairperson of the DVFRP and is responsible for calling and coordinating the meetings;~~

~~— 11.2.b. Four prosecuting attorneys of their designees;~~

~~— 11.2.c. The Superintendent of the West Virginia State Police or his or her designee;~~

~~— 11.2.d. One county law enforcement official;~~

~~— 11.2.e. One local municipal police officer;~~

~~— 11.2.f. One physician, resident or nurse practitioner specializing in the practice of family medicine or emergency medicine;~~

~~— 11.2.g. One physician, resident or nurse practitioner specializing in the practice obstetrics and gynecology;~~

~~— 11.2.h. One adult protective service worker currently employed in investigation reports of adult abuse or neglect;~~

~~— 11.2.i. One social worker who may be employed in medical social work;~~

~~— 11.2j. The Commissioner of the Bureau for Behavioral Health and Health Facilities of the Department of Health and Human Resources or his or her designee; or his or her designee;~~

~~_____ 11.2.k. The Commissioner of the Bureau for Children and Families of the Department of Health and Human Resources or his or her designee;~~

~~_____ 11.2.l. One domestic violence advocate from a licensed domestic violence program;~~

~~_____ 11.2.m. A representative of the West Virginia Coalition Against Domestic Violence;~~

~~_____ 11.2.n. The Commissioner of the Division of Corrections or his or her designee; and~~

~~_____ 11.2.o. The Director of the Office of Epidemiology and Prevention Services in the Bureau for Public Health or his or her designee.~~

~~_____ 11.3. The current membership of the DVFRP shall remain effective and authorized to carry out the duties described in this rule and the authorizing statute. As vacancies on the panel occur, new members shall be appointed by the FMRT to give broad representation to those individuals, agencies, organizations and groups who have particular interest and expertise to contribute to the review of deaths from domestic violence.~~

~~_____ 11.4. The chairperson of the DVFRP, or his or her designee, will screen adult deaths that are reported to the chief medical examiner, under W. Va. Code §61-12-8(a), in an attempt to identify those incidents that might be domestic violence related. DVFRP members may also submit incidents for review by the panel to determine whether it is a domestic violence incident.~~

~~_____ 11.5. Each member of the DVFRP shall examine the records of his or her agency to determine if they have information relating to the incident under review. Members may contact other agencies to collect pertinent records and information if necessary.~~

~~_____ 11.6. Panel members shall present to the rest of the DVFRP the information obtained from the record reviews and information collection.~~

~~**§64-29-12. Responsibilities of Infant and Maternal Mortality Review Panel.**~~

~~_____ The Infant and Maternal Mortality Review Panel shall perform the following duties: review all deaths of infants who die in the first year of life and women who die during pregnancy, at the time of birth or within one year of the birth of a child from any cause related to or aggravated by pregnancy or its management but not from accidental or incidental causes; establish the trends, patterns and risk factors; provide statistical analysis regarding the causes of infant and maternal deaths in West Virginia; and promote public awareness of the incidence and causes of infant and maternal deaths.~~

~~**§64-29-13. Conduct and Membership of Infant and Maternal Mortality Review Panel.**~~

~~_____ 13.1. The Infant and Maternal Mortality Review Panel shall meet two to four times per year, based upon the number of deaths. Members of the IMMMP shall serve for terms of five years and may be re-appointed.~~

~~_____ 13.2. The IMMMP shall be comprised of the following members:~~

~~_____ 13.2.a. The Director of the office of Maternal, Child and Family Health, who shall serve as the chairperson of the IMMMP and is responsible for calling and coordinating the meetings;~~

~~_____ 13.2.b. The Commissioner of the Bureau for Public Health or his or her designee;~~

~~_____ 13.2.c. The Chief Medical Examiner in the Bureau for Public Health or his or her designee;~~

~~_____ 13.2.d. The Director of the Office of Vital Statistics in the Bureau for Public Health or his or her designee;~~

~~_____ 13.2.e. Representation from each of the three medical schools in the state;~~

~~_____ 13.2.f. The Director of Obstetrics, the Director of the Neonatal Intensive Care Unit and the Director of Pediatrics at each of the tertiary care hospitals in the state;~~

~~_____ 13.2.g. One representative from the West Virginia State Medical Association;~~

~~_____ 13.2.h. One representative from the West Virginia Nurses Association;~~

~~_____ 13.2.i. One representative from the West Virginia Society of Osteopathic~~

~~_____ 13.2.j. One representative from the West Virginia Academy of Family Physicians;~~

~~_____ 13.2.k. One representative from the West Virginia Chapter of the American College of Nurse Midwives;~~

~~_____ 13.2.l. One representative from the West Virginia Chapter of the American College of Obstetrics and Gynecology;~~

~~_____ 13.2.m. One representative from the West Virginia Chapter of the American Academy of Pediatrics;~~

~~_____ 13.2.n. The Chairperson of the Child Fatality Review Panel; and~~

~~_____ 13.2.o. Any additional person that the chairperson of the IMMRRP, or the Chairperson of the FMRT, determines is needed on a particular case under consideration by the panel.~~

~~_____ 13.3. The current membership of the IMMRRP shall remain effective and authorized to carry out the duties described in this rule and the authorizing statute. In the future the FMRT shall appoint members to serve on the IMMRRP and shall also appoint persons to fill vacancies on the Infant and Maternal Mortality Review Panel.~~

~~_____ 13.4. Each member shall serve for a term of five years.~~

~~_____ 13.5. Members of the Infant and Maternal Mortality Review Panel shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and have qualified.~~

~~_____ 13.6. An appointment of a physician, whether for a full term or to fill a vacancy, is to be made by the FMRT from among three nominees selected by the West Virginia State Medical Association or the organization to be represented on the panel. When an appointment is for a full term, the nomination is to be submitted to the FMRT not later than eight months prior to the date on which the appointment is to become effective. In the case of an appointment to fill a vacancy, the nominations are to be submitted to the FMRT within thirty days after the request for the nomination has been made by the FMRT to the chairperson or president of the organization. When an association fails to submit to the FMRT nominations for the appointment in accordance with the requirements of this section, the FMRT may make the appointment without nominations.~~

~~—13.7. Each member of the Infant and Maternal Mortality Review Panel shall serve without additional compensation and may not be reimbursed for any expenses incurred in the discharge of his or her duties under the provisions of this article.~~

~~—13.8. The Office Director of the Office of Maternal Child and Family Health in the Bureau shall serve as the chairperson of the Infant and Maternal Mortality Review Panel, or his or her designee. The IMMMP shall review death certificates of infants and women sent monthly by the office of vital statistics.~~

~~—13.9. Each member of the Infant and Maternal Mortality Review Panel shall examine the records of his or her agency to determine if the infant or woman received services at his or her agency, and if necessary, may contact other agencies to complete the review.~~

~~—13.10. Panel members shall present to the rest of the Infant and Maternal Review Panel the information obtained from the record reviews, but shall retain the documents in each agency's files.~~

~~—13.11. All documents regarding a particular case that are reviewed by the Infant and Maternal Mortality Review Panel shall be destroyed by the Panel after the publication of the FMRT annual report in which that case data is included.~~

~~—13.12. The Infant and Mortality Review Panel members, in the exercise of their duties as defined in this subsection, may not:~~

~~—————13.12.a. Call witnesses or take testimony from individuals involved in the investigation of an infant or maternal fatality;~~

~~—————13.12.b. Contact a family member of the deceased infant or mother, except if a member of the panel is involved in the investigation of the death and must contact a family member in the course of performing his or her duties outside of the panel; or~~

~~—————13.12.c. Enforce any public health standard or criminal law or otherwise participate in any legal proceeding, except if a member of the panel is involved in the investigation of the death or resulting prosecution and must participate in a legal proceeding in the course of performing in his or her duties outside of his or her affiliation with the panel.~~

~~§64-29 14. Recommended Protocols for Panel Reviews.~~

~~—14.1 The following are recommended protocols to aid in the review of unintentional pharmaceutical drug overdose, child, domestic violence and infant and maternal deaths by all four of the Fatality and Mortality Review Advisory Panels.~~

~~—————14.1.a. All Review Panel members shall sign a sworn statement promising to maintain the confidentiality of information, records, discussions and opinions disclosed during reviews.~~

~~—————14.1.b. The Review Panel may call for an immediate review of medical records requested from physicians and hospitals treating the person whose death is under review to try and determine causes and possible preventative measure related to the death.~~

~~—————14.1.c. Review Panel members shall receive materials in advance of the meeting and review cases de identified following nationally recommended guidelines and processes at meetings.~~

~~—14.2. Physicians and health care providers asked to supply medical records shall do so for evaluation/review purposes only regarding the death of the person whose death is under review. Patient, hospital, and medical practitioner names are removed following nationally recommended guidelines and processes to ensure confidentiality.~~

~~—14.3. Data forms shall be completed using the provided information from medical records received from physicians and health care providers. Data will be compiled for the annual report to be submitted by the FMRT to the Governor and Legislature. No identifying information will be released in this report, only compiled data following nationally recommended guidelines and processes will be used.~~

~~—14.4. Summaries and reports on Panel findings and recommendations that depict patterns and trends in deaths reviewed by Panels shall be presented in aggregate form.~~

~~—14.5. All case review materials are collected at the conclusion of each meeting and properly destroyed.~~

~~§64-29 15. Confidentiality.~~

~~—15.1. All information and records of the FMRT, and opinions expressed by members are confidential not to be released or disclosed except as aggregate data in the FMRT annual report required to be filed in accordance with section 6 of this rule.~~

~~—15.2. Proceedings, records and opinions of the FMRT and each of the Advisory Panels are confidential, and are not subject to discovery, subpoena or introduction into evidence in any civil or criminal proceeding. Nothing in this subsection is to be construed to limit or restrict the right to discover or use in any civil or criminal proceeding anything that is available from another source and entirely independent of the proceedings of the FMRT or any of the Advisory Panels.~~

~~—15.3. Members of the FMRT and each of the Advisory Panels may not be questioned in any civil or criminal proceeding regarding information presented in or opinions formed as a result of a meeting of the panel. Nothing in this subsection may be construed to prevent a member of the FMRT and each of the Advisory Panels from testifying to information obtained independently of the panel or which is public information.~~