

CITY OF PHILADELPHIA
DEPARTMENT OF PUBLIC HEALTH
Board of Health

Regulation Relating to Drug Overdose Death Review

Approved January 10, 2019

WHEREAS, Section 5-301(b) of the Philadelphia Home Rule Charter authorizes the Board of Health to issue Department of Public Health regulations for the preservation and promotion of the health of the people of Philadelphia;

WHEREAS, Section 6-202(4) of The Philadelphia Code provides for reporting to the Department of Public Health of information and reports pursuant to regulations adopted by the Board of Health to aid in the formulation and review of municipal programs for the promotion of the health of the public;

WHEREAS, Philadelphia is in the midst of an unprecedented drug overdose epidemic driven by opioids: more than 1,200 Philadelphians died from drug overdose in 2017, which is approximately double the number of Philadelphians who died from drug overdose in 2014;

WHEREAS, the Department of Public Health has identified the need for a multi-disciplinary overdose death review team that will conduct investigations in order to examine in detail the circumstances surrounding drug overdose deaths, for the purpose of identifying risk factors and missed opportunities for prevention;

WHEREAS, the conclusions and nonbinding recommendations of the overdose death review team will inform public health and social service programs, policies, and interventions intended to reduce overdose deaths in the City of Philadelphia;

WHEREAS, the overdose death review team will require access to sensitive health and social services encounter information protected by the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936) (“HIPAA”), 42 CFR Pt. 2 (relating to confidentiality of alcohol and drug abuse patient records), and other confidentiality laws and regulations; and

WHEREAS, the Department of Public Health and the Office of Behavioral Health and Intellectual disAbility Services have jointly developed a framework whereby personal identifiers will be removed from case studies prior to the team’s review, in order to protect the privacy of data subjects and comply with applicable confidentiality laws;

NOW, THEREFORE, the Board of Health hereby adopts this Regulation Relating to Drug Overdose Death Review, as follows:

Section 1. Definitions

OBHIDS. The Philadelphia Office of Behavioral Health and Intellectual disAbility Services.

Case Review Subject. A decedent, the primary or secondary cause of whose death, or a contribution in whose death, is a drug overdose, selected by the ODR Staff Team for investigation by the ODR Team.

Health Commissioner. The Health Commissioner of the Philadelphia Department of Public Health.

ODR Team. The Overdose Death Review Team established under Section 2.

ODR Staff Team. The Overdose Death Review Staff Team described in Section 3.

PDPH. The Philadelphia Department of Public Health.

Protected Health Information. As defined in 45 C.F.R. 160.103.

Public Health Authority. As defined in 45 C.F.R. 164.501.

Section 2. Establishment of the Overdose Death Review Team

The Overdose Death Review Team is hereby established as a joint initiative of PDPH and OBHIDS. The ODR Team shall be composed of representatives from governmental and non-governmental health and social service providers designated by the Health Commissioner.

The ODR Team shall be tasked with investigating the overdose deaths of Case Review Subjects, including examining the circumstances of such deaths and evaluating the health care and social services provided to such individuals prior to their deaths, in order to identify opportunities and risks related to public health programs and policies and ultimately to prevent drug overdose deaths in the City of Philadelphia.

Section 3. Operation of the Overdose Death Review Staff Team

To facilitate the work of the ODR Team, OBHIDS shall operate a staff team responsible for selecting Case Review Subjects, collecting information pertaining to the Case Review Subjects' service history from City agencies and other health and social services providers, and removing personal identifiers to prepare case studies for review by the ODR Team.

The Health Commissioner hereby grants authority to OBHIDS to act as a Public Health Authority with respect to collecting and maintaining Protected Health Information and operating the ODT Staff Team in accordance with this Regulation.

Section 4. Obtaining Information about Case Review Subjects

The ODR Staff Team shall select approximately six (6) Case Review Subjects per quarter for investigation, or a different number as determined by the ODR Staff Team in accordance with capacity, and shall collect from health and social service providers information relating to each agency's past provision of services to any Case Review Subject. The ODR Staff Team shall issue a written request, which shall specify the data elements needed to conduct the investigation. In the case of hospitals, the minimum information necessary to carry out the public health purposes of this Regulation shall include at least the following data elements: for the twelve (12) months preceding the request, all interactions with the hospital's emergency department and, to the extent permitted by applicable laws, inpatient facilities, including facility name, dates of service, reasons for visit, procedures performed, treatment provided, medical notes, diagnoses, and discharge plans. The information requested from social services agencies shall include at least: interactions with the agency, dates of service or outreach, type of service, and case management / care coordination records.

Section 5. Preparing Case Studies for ODR Team Review

From the information it receives pursuant to this Regulation, the ODR Staff Team shall remove personally identifiable information to prepare case studies for ODR Team review. The ODR Staff Team shall develop a methodology for preparing case studies in a manner that ensures no identifiable information, re-identification key, or other information is disclosed that might be used to identify a Case Review Subject. Members of the ODR Team shall not attempt to ascertain the identity of any Case Review Subject.

Section 6. Privacy and Security

Identifiable information collected pursuant to this Regulation, including, but not limited to, Protected Health Information, shall be held confidentially by OBHIDS in accordance with HIPAA, 42 CFR Pt. 2, and other applicable laws and regulations. OBHIDS shall use

appropriate safeguards to prevent unauthorized use or disclosure, including limiting staff access to Protected Health Information to members of the ODR Staff Team.

All records, including information collected pursuant to this Regulation, case studies prepared by the ODR Staff Team, and proceedings and deliberations of the ODR Staff Team and ODR Team, shall be privileged and confidential to the extent permitted or required by applicable law. All ODR Team members and ODR Staff Team members shall properly maintain such records as privileged and confidential and shall not disclose such records to any individual or entity outside the ODR Team and ODR Staff Team without the written consent or direction of either the Health Commissioner or the City of Philadelphia Law Department. ODR Team members shall sign a confidentiality agreement prior to participating in any meetings of the ODR Team.