

1 **H. B. 4096**

2  
3 (By Delegates Perdue, Hatfield, Lawrence, Marshall,  
4 Moye, Poore, Staggers, Ferns, Ellington,  
5 J. Miller and Rowan)

6 [Introduced January 17, 2012; referred to the  
7 Committee on Health and Human Resources then Government  
8 Organization.]

**Interim  
Bill**

9  
10  
11 A BILL to amend the Code of West Virginia, 1931, as amended, by  
12 adding thereto a new article, designated §61-12A-1, §61-12A-2,  
13 §61-12A-3 and §61-12A-4, all relating to the creation of the  
14 Unintentional Pharmaceutical Drug Overdose Fatality Review  
15 Team under the Office of the Chief Medical Examiner; setting  
16 forth membership of the team; setting forth responsibilities  
17 of the team; providing for certain actions the team may not  
18 take in exercising its duties; providing for an annual report  
19 to the Governor and Legislature and its contents; providing  
20 for confidentiality of the team's proceedings, records and  
21 opinions; setting forth record-keeping requirements; requiring  
22 other state agencies, hospitals and other health agencies to  
23 cooperate with the team; and granting rule-making authority.

24 *Be it enacted by the Legislature of West Virginia:*

25 That the Code of West Virginia, 1931, as amended, be amended

1 by adding thereto a new article, designated §61-12A-1, §61-12A-2,  
2 §61-12A-3 and §61-12A-4, all to read as follows:

3 **ARTICLE 12A. UNINTENTIONAL PHARMACEUTICAL DRUG OVERDOSE FATALITY**

4 **REVIEW TEAM.**

5 **§61-12A-1. Legislative findings.**

6 The Legislature finds:

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

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

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

21 **§61-12A-2. Unintentional Pharmaceutical Drug Overdose Fatality**

22 **Review Team.**

23 (a) The Unintentional Pharmaceutical Drug Overdose Fatality

1 Review Team is hereby created under the Office of the Chief Medical  
2 Examiner. The Unintentional Pharmaceutical Drug Overdose Fatality  
3 Review Team is a multidisciplinary team created to examine, review  
4 and analyze the deaths of all persons in the State of West Virginia  
5 who die as a result of unintentional prescription or pharmaceutical  
6 drug overdoses.

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

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

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

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

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

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

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

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

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

3       (9) One representative who is a physician specializing in  
4 addiction medicine nominated by the West Virginia Society of  
5 Addiction Medicine;

6       (10) One representative who is a Doctor of Pharmacy, with a  
7 background in prescription drug abuse and diversion nominated by  
8 West Virginia Pharmacists Association;

9       (11) One representative who is a licensed counselor nominated  
10 by the West Virginia Association of Alcoholism and Drug Abuse  
11 Counselors;

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

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

17       (14) A person who is considered an expert in bio-ethics  
18 training;

19       (15) One representative who is a licensed dentist nominated by  
20 the Board of Dental Examiners; and

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

24       © 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 term.  
3 Members shall continue to serve until their respective terms expire  
4 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 Governor  
13 from among three nominees selected by the West Virginia Society of  
14 Osteopathic Medicine. Each appointment of a dentist, whether for  
15 a full term or to fill a vacancy, is to be made by the Governor  
16 from among three nominees selected by the West Virginia Dental  
17 Association. With respect to all other appointments not specified  
18 herein, the Governor may make the appointments without nomination.

19 (e) Each member of the Unintentional Pharmaceutical Drug  
20 Overdose Fatality Review Team shall serve without additional  
21 compensation and may not be reimbursed for any expenses incurred in  
22 the discharge of his or her duties under the provisions of this  
23 article.

24 **§61-12A-3. Responsibilities of the Unintentional Pharmaceutical**

1                    **Drug Overdose Fatality Review Team.**

2            (a) The Office of the Chief Medical Examiner, in consultation  
3 with the Unintentional Pharmaceutical Drug Overdose Fatality Review  
4 Team shall propose legislative rules for legislative approval  
5 pursuant to article three, chapter twenty-nine-a of this code.

6 Those rules shall include, at a minimum:

7            (1) The standard procedures for the conduct of the  
8 Unintentional Pharmaceutical Drug Overdose Fatality Review Team;  
9 and

10           (2) The processes and protocols for the review and analysis of  
11 unintentional pharmaceutical drug overdoses resulting in fatalities  
12 of those who were not suffering from mortal diseases shortly before  
13 death.

14           (b) The Unintentional Pharmaceutical Drug Overdose Fatality  
15 Review Team shall:

16           (1) Review and analyze all deaths occurring within the State  
17 of West Virginia where the cause of death was determined to be due  
18 to unintentional pharmaceutical drug overdose, specifically  
19 excluding the death of persons suffering from a mortal disease or  
20 instances where the manner of the overdose death was suicide;

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

24           (3) Ascertain and document patterns related to the sale and

1 distribution of pharmaceutical prescriptions by those otherwise  
2 licensed to provide said prescriptions, including the application  
3 of information included within the database kept and maintained by  
4 the West Virginia Board of Pharmacy;

5 (4) Develop and implement standards for the uniform and  
6 consistent reporting of unintentional pharmaceutical drug overdose  
7 deaths by law enforcement or other emergency service responders;

8 (5) Provide statistical information and analysis regarding the  
9 causes of unintentional pharmaceutical drug overdose fatalities;  
10 and

11 (6) Promote public awareness of the incidence and causes of  
12 unintentional pharmaceutical drug overdose fatalities, including  
13 recommendations for their reduction.

14 © The Unintentional Pharmaceutical Drug Overdose Fatality  
15 Review Team shall submit an annual report to the Governor and to  
16 the Legislative Oversight Commission on Health and Human Resources  
17 Accountability concerning its activities within the state. The  
18 report is due annually on December 1. The report is to include  
19 statistical information concerning cases reviewed during the year,  
20 trends and patterns concerning these cases, and the team's  
21 recommendations to reduce the number of unintentional  
22 pharmaceutical drug overdose fatalities in the state.

23 (d) The Unintentional Pharmaceutical Drug Overdose Fatality  
24 Review Team, in the exercise of its duties as defined in this

1 section, may not:

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

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

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

7 (4) Otherwise take any action which in the determination of a  
8 prosecuting attorney or his or her assistants, impairs the ability  
9 of the prosecuting attorney, his or her assistants or any  
10 law-enforcement officer to perform his or her statutory duties.

11 (e) Proceedings, records and opinions of the Unintentional  
12 Pharmaceutical Drug Overdose Fatality Review Team are confidential  
13 and are not subject to discovery, subpoena or introduction into  
14 evidence in any civil or criminal proceeding. Nothing in this  
15 subsection limits or restricts the right to discover or use in any  
16 civil or criminal proceeding anything that is available from  
17 another source and entirely independent of the proceedings of the  
18 Unintentional Pharmaceutical Drug Overdose Fatality Review Team.

19 (f) Members of the Unintentional Pharmaceutical Drug Overdose  
20 Fatality Review Team may not be questioned in any civil or criminal  
21 proceeding regarding information presented in or opinions formed as  
22 a result of a meeting of the team. This subsection does not  
23 prevent a member of the Unintentional Pharmaceutical Drug Overdose  
24 Fatality Review Team from testifying to information obtained

1 independently of the team or which is public information.

2 **§61-12A-4. Other agencies of government required to cooperate.**

3 State, county and local agencies, hospitals and other health  
4 agencies shall provide the Unintentional Pharmaceutical Drug  
5 Overdose Fatality Review Team with any information requested in  
6 writing by the team as allowable by law and upon receipt of a  
7 certified copy of the circuit court's order directing the agency to  
8 release information in its possession relating to the deceased. The  
9 team shall assure that all information received and developed in  
10 connection with this article remain confidential.

NOTE: The purpose of this bill is to create the Unintentional Pharmaceutical Drug Overdose Fatality Review Team under the Office of the Chief Medical Examiner. The bill sets forth membership of the team and its responsibilities. The bill requires the team to examine cases that involve unintentional pharmaceutical drug overdose deaths and to promote public awareness of the causes of unintentional pharmaceutical drug overdose deaths. Under the bill, proceedings, records and opinions of the team are confidential. The bill requires other state agencies to cooperate with the team and requires that the team provide an annual report to the Governor and the Legislature. The bill also grants rule-making authority.

This article is new; therefore, it has been completely underscored.

This bill was recommended for introduction and passage during the Regular Session of the Legislature by the Legislative Oversight Commission on Health and Human Resources Accountability.