WEST virginia legislature

2023 regular session

ENROLLED

Committee Substitute

for

House Bill 3306

By Delegates Summers, Tully and Heckert

[Passed March 11, 2023; in effect ninety days from passage.]

AN ACT to amend and reenact §16-1-13 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-5T-2 and §16-5T-4 of said code; and to amend said code by adding thereto a new section, designated §16-5T-7 of said code; all relating to the department; creating a special revenue account; providing for the appointing of the director of the Office of Drug Control Policy; requiring the creation of a task force; setting forth composition of the taskforce; setting forth areas to be examined by taskforce; requiring reporting; establishing deadlines for reports; continuing data dashboard; adding variables to items that must be collected; amending information technology platform; setting forth items that must be displayed on dashboard; providing for enforcement; providing for imposition of civil monetary penalties for violation of reporting requirements.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.

§16-1-13. Hospital services revenue account.

(a) Subject to the provisions set forth in §12-2-2 of this code, there is continued in the State Treasury a separate account which shall be designated the “hospital services revenue account.” The secretary shall deposit promptly into the account any fees received by a facility owned and operated by the department from whatever source including the federal government, state government, or other third-party payer or personal payment.

(b) The secretary may spend the moneys deposited in the hospital services revenue account in accordance with federal laws and regulations and with the laws of this state. The secretary may spend the moneys deposited in the hospital services revenue account in the amounts the secretary determines necessary for the purpose of improving the delivery of health and mental health services or for the purpose of maintaining or obtaining certification at a state health or mental health facility: *Provided,* That all disproportionate share hospital funds received into the account shall be transferred by intergovernmental transfer to the medical services trust fund created in §9-4A-2a of this code, except for funds appropriated by the Legislature for other purposes within the annual budget bill: *Provided, however,* That during any fiscal year in which the secretary anticipates spending any money from the account, he or she shall submit to the executive department during the budget preparation period prior to the Legislature convening, before that fiscal year for inclusion in the executive budget document and budget bill, his or her recommended capital investments, recommended priorities and estimated costs, as well as requests of appropriations for the purpose of improving the delivery of health and mental health services or for the purpose of maintaining or obtaining certification at a state health facility in the amounts the secretary determines to be necessary.

(c) The secretary shall make an annual report to the Legislature on the status of the health services revenue account, including the previous year’s expenditures and projected expenditures for the next year.

Article 5T. Office of Drug Control Policy.

§16-5T-2. Office of Drug Control Policy.

(a) The Office of Drug Control Policy is continued within the department. The Director of the Office of Drug Control Policy shall be appointed by the Governor, by and with the advice and consent of the Senate. The director of the office is administratively housed in the Department of Human Services and directly reports to the Office of the Governor, and works in cooperation with the State Health Officer, the Bureau of Public Health, and the Bureau for Behavioral Health.

(b) The Office of Drug Control Policy shall create a state drug control policy in coordination with the bureaus of the department and other state agencies. This policy shall include all programs which are related to the prevention, treatment, and reduction of substance abuse use disorder.

(c) The Office of Drug Control Policy shall:

(1) Develop a strategic plan to reduce the prevalence of drug and alcohol abuse and smoking by at least 10 percent;

(2) Monitor, coordinate, and oversee the collection of data and issues related to drug, alcohol, and tobacco access, substance use disorder policies, and smoking cessation and prevention, and their impact on state and local programs;

(3) Make policy recommendations to executive branch agencies that work with alcohol and substance use disorder issues, and smoking cessation and prevention, to ensure the greatest efficiency and consistency in practices will be applied to all efforts undertaken by the administration;

(4) Identify existing resources and prevention activities in each community that advocate or implement emerging best practice and evidence-based programs for the full substance use disorder continuum of drug and alcohol abuse education and prevention, including smoking cessation or prevention, early intervention, treatment, and recovery;

(5) Encourage coordination among public and private, state and local agencies, organizations, and service providers, and monitor related programs;

(6) Act as the referral source of information, using existing information clearinghouse resources within the Department of Health and Human Resources, relating to emerging best practice and evidence-based substance use disorder prevention, cessation, treatment and recovery programs, and youth tobacco access, smoking cessation and prevention. The Office of Drug Control Policy will identify gaps in information referral sources;

(7) Apply for grant opportunities for existing programs;

(8) Observe programs in other states;

(9) Make recommendations and provide training, technical assistance, and consultation to local service providers;

(10) Review existing research on programs related to substance use disorder prevention and treatment and smoking cessation and prevention, and provide for an examination of the prescribing and treatment history, including court-ordered treatment, or treatment within the criminal justice system, of persons in the state who suffered fatal or nonfatal opiate overdoses;

(11) Establish a mechanism to coordinate the distribution of funds to support any local prevention, treatment, and education program based on the strategic plan that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;

(12) Establish a mechanism to coordinate the distribution of funds to support a local program based on the strategic plan that could encourage substance use prevention, early intervention, treatment, and recovery through efficient, effective and research-based strategies;

(13) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement school-based anti-drug and anti-tobacco programs;

(14) Coordinate media campaigns designed to demonstrate the negative impact of substance use disorder, smoking and the increased risk of tobacco addiction and the development of other diseases;

(15) Review Drug Enforcement Agency and the West Virginia scheduling of controlled substances and recommend changes that should be made based on data analysis;

(16) Develop recommendations to improve communication between health care providers and their patients about the risks and benefits of opioid therapy for acute pain, improve the safety and effectiveness of pain treatment, and reduce the risks associated with long-term opioid therapy, including opioid use disorder and overdose;

(17) Develop and implement a program, in accordance with the provisions of §16-5T-3 of this code, to collect data on fatal and nonfatal drug overdoses caused by abuse and misuse of prescription and illicit drugs, from law enforcement agencies, emergency medical services, health care facilities and the Office of the Chief Medical Examiner;

(18) Develop and implement a program that requires the collection of data on the dispensing and use of an opioid antagonist from law enforcement agencies, emergency medical services, health care facilities, the Office of the Chief Medical Examiner and other entities as required by the office;

(19) Develop a program that provides assessment of persons who have been administered an opioid antagonist;

(20) Create a Sober Living Home/Recovery Residence Taskforce comprised of the following stakeholders:

(A) The Executive Director of the West Virginia Prosecuting Attorney Institute, or designee;

(B) The Secretary of Department of Homeland Security, or designee;

(C) The West Virginia Attorney General, or designee;

(D) The Director of the West Virginia Alliance of Recovery Residences, or designee;

(E) The State Health Officer, or designee;

(F) The Commissioner for the Bureau for Behavioral Health, or designee; and

(G) The West Virginia Inspector General, or designee.

(i) The purpose of the taskforce is to review existing West Virginia law, the laws of other states, and any developed case law regarding sober living homes/recovery residences and make recommendations to the Legislature regarding any revisions needed to West Virginia law regarding sober living homes/recovery residences. At a minimum the following areas shall be examined: insurance fraud, human trafficking, success of programs, and any other relevant issues.

(ii) These recommendations shall be presented to the Legislative Oversight Commission on Health and Human Resources Accountability no later than December 15, 2023. A representative of the Taskforce shall provide the Commission with an update regarding the status of the taskforce, including any preliminary findings by October 1, 2023.

(21) Report semi-annually to the Joint Committee on Health on the status of the Office of Drug Control Policy.

(d) Notwithstanding any other provision of this code to the contrary, and to facilitate the collection of data and issues, the Office of Drug Control Policy may exchange necessary data and information with the bureaus within the department, the Department of Military Affairs and Public Safety, the Department of Administration, the Administrator of Courts, the Poison Control Center, Office of National Drug Control Policy and the Board of Pharmacy. The data and information may include, but is not limited to: data from the Controlled Substance Monitoring Program; the criminal offender record information database; and the court activity record information;

**§16-5T-4. Entities required to report; required information; Continuation of data dashboard.**

(a) To fulfill the purposes of this article, the following information shall be reported, within 24 hours after the provider responds to the incident and via an appropriate information technology platform, to the Office of Drug Control Policy:

(1) The date and time of the overdose;

(2) The approximate address of where the person was picked up or where the overdose took place;

(3) Whether an opioid antagonist was administered;

(4) Whether the overdose was fatal or nonfatal;

(5) The gender and approximate age of the person receiving attention or treatment;

(6) The suspected controlled substance involved in the overdose;

(7) Whether the individual has a history of a prior overdose, if known; and

(8) The type of drug used in the overdose.

(b) The following entities shall be required to report information contained in §16-5T-4(a) of this code:

(1) Health care providers;

(2) Medical examiners;

(3) Law-enforcement agencies, including, state, county, and local police departments;

(4) Emergency response providers; and

(5) Hospital emergency rooms.

(c) The data collected by the office pursuant to this subsection shall be made available to law enforcement, local health departments, and emergency medical service agencies in each county.

(d) Entities who are required to report information to or from the office pursuant to this section in good faith are not subject to civil or criminal liability for making the report.

(e) For the purposes of this section:

“Information technology platform” means a dashboard constructed for or by the state to allow input, collection, data analysis, and display of the required data within 24 hours. The dashboard shall be scalable for additional future requirements with minimum engineering and development time. There is a preference that the dashboard be compatible with artificial intelligence to maintain monitoring.

“Overdose” means an acute condition, including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death believed to be caused by abuse and misuse of prescription or illicit drugs or by substances that a layperson would reasonably believe to be a drug.

 “Opioid antagonist” means a federal Food and Drug Administration-approved drug for the treatment of an opiate-related overdose, such as naloxone hydrochloride or other substance that, when administered, negates or neutralizes, in whole or in part, the pharmacological effects of an opioid in the body.

(f) Office of Drug Control Policy shall continue to compile the data that is reported, or that it otherwise has access to, in a public facing data dashboard. This dashboard shall also include the following:

(1) Every project that receives state funding, federal funding, opioid settlement funds, and other relevant funding sources for substance use disorder beginning in fiscal year 2024;

(2) Data on the outcomes of funded community-based outreach programs, harm reduction programs, criminal justice substance use disorder programs, harm prevention programs, and other funded program, to evaluate program effectiveness and inform program improvement;

(3) A comparison of program effectiveness by county, region, rural or urban, and demographics to identify best practices and areas for improvement and share these findings with stakeholders to support evidence-based decision making;

(4) Alerts to a rise in fatal and non-fatal overdoses in a given area or region to enable resources to be deployed to the area;

(5) Track and interact with medication assisted treatment providers, including the number of patients in and out of treatment, to support the coordination of care and effective care for individuals with substance use disorder;

(6) Public facing information, including maps, charts, and other visualizations, to increase transparency and engagement with stakeholders

(7) The location of every substance use disorder provider on a statewide basis to provide individuals linkage to care;

(8) Non-fatal overdoses within 24 hours of the incident, with data collected from multiple sources, including hospitals, first responders, and law enforcement agencies;

(9) Fatal overdoses with data collected from multiple sources including hospitals, first responders, and law enforcement agencies;

(10) Identification of trends from the data that has been collected, including but not limited to fatal and non-fatal overdoes, use of opioid antagonist, trends in illicit drugs causing overdoses, and other relevant data that can be used to inform the allocation of resources in an area;

(11) Emergency department visits and first responder calls for fatal and non-fatal overdoses, and use this data to identify trends and hotspots and inform resource allocation;

(12) Data regarding program effectiveness in both the short-term and long-term with both immediate and long-term outcomes for individuals receiving services and support for ongoing program improvement and refinement; and

(13) The dashboard shall be updated daily to reflect current data, changes in provider location, and any other updates as needed.

**§16-5T-7. Enforcement.**

(a) The Office of Drug Control Policy may assess a civil penalty for violation of the reporting requirements set forth in §16-5T-4 of this code. If the Office of Drug Control Policy determines that an entity is in violation of the reporting requirements, then a civil penalty of not less than $500 no more than $1000 per occurrence may be assessed.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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 *Clerk of the House of Delegates*

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 *Clerk of the Senate*

Originated in the House of Delegates.

In effect ninety days from passage.

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 *Speaker of the House of Delegates*

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 *President of the Senate*

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Day of ..........................................................................................................., 2023.

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 *Governor*