

CHAPTER 428
FORMERLY
HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 440

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE CREATION OF AN OVERDOSE SYSTEM OF CARE.

WHEREAS, far too many Delawareans have been personally affected by substance use disorder and in particular, opioid use disorder, and have experienced the tragedy of watching loved ones suffer from this chronic disease; and

WHEREAS, coordinated clinical protocols, organizational policies, and increased infrastructure are required in our first responder and health care system for this disease to be evaluated and managed at the appropriate level of care and clinical setting; and

WHEREAS, it is the intent of the Delaware General Assembly to establish a statewide overdose system of care in order to ensure that consistent, humane, evidence-based treatment and care is available and provided to those requiring acute management for overdose or substance use disorder.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 9702, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating Delaware Code subsections and internal references accordingly:

§ 9702. Definitions.

As used in this subchapter:

() “Controlled substance” means as defined in § 4701 of this title.

() “Hospital” means as defined in § 1001 of this title.

() “Opioid use disorder” means a substance use disorder involving the use of opioids, whether as controlled substances or as narcotic drugs.

() “Overdose” means an acute condition resulting from the use of alcohol or a controlled substance, or a narcotic drug, or a combination of substances, including physical illness, coma, mania, hysteria, or death.

() “Overdose System of Care Committee” means the committee established under § 9709 of this title.

() “Secretary” means the Secretary of the Department of Health and Social Services.

(23) "Specialty care unit" shall mean sophisticated treatment facilities that provide advanced specialized definitive care for critically ill patients. The units shall be available for the diagnosis and care of specific patient problems including major trauma, burns, spinal cord injury, stroke, poisoning, acute cardiac, overdose, substance use disorder, opioid use disorder, high-risk infant and behavioral emergencies.

() “Stabilization center” means a facility designated by the Secretary to receive patients from Emergency Medical Services who are experiencing a non-life threatening overdose or who require acute management for substance use disorder.

() “Substance use disorder” means the psychological or physical dependence on alcohol, a controlled substance, a narcotic drug, or a combination of substances, that causes clinical and functional impairment or distress. “Substance use disorder” often includes a strong desire to use alcohol, a controlled substance, or a narcotic drug, increased tolerance to alcohol, a controlled substance, or a narcotic drug, and withdrawal syndrome when use of alcohol, a controlled substance, or a narcotic drug is abruptly discontinued.

Section 2. Amend § 9704, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9704. Office of Emergency Medical Services – Created; purpose.

(l) Except for those activities and responsibilities for basic life support, which are under the jurisdiction of the State Fire Prevention Commission, the Office of Emergency Medical Services has jurisdiction over the development, implementation, and maintenance of the overdose system of care created under § 9708 of this title.

(m) A memorandum of agreement must be established between the Office of Emergency Medical Services of the Division of Public Health and the State Fire Prevention Commission to foster inclusion and coordination of Basic Life Support Services within the Statewide overdose system of care created under § 9708 of this title.

Section 3. Amend § 9707, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9707. Confidentiality of quality review program and participants.

(f) Confidentiality of overdose system of care review program and participants. --

(1) For purposes of this subsection, “records” means recordings of interviews and all oral or written reports, statements, minutes, memoranda, charts, statistics, data, and other documentation generated by the Overdose System of Care Committee or its ad hoc committees for the stated purpose of overdose system medical review or quality care review and audit.

(2) All overdose system medical review or quality management proceedings are confidential.

(3) Records and raw data collected or created by the Overdose System of Care Committee and members, attendees, and visitors at meetings held for the stated purpose of overdose system medical review, quality care review, or audit are confidential and privileged and are be protected from direct or indirect means of discovery, subpoena, or admission into evidence in any judicial or administrative proceeding and are specifically excluded from the definition of public record as set forth at § 10002 of Title 29.

Section 4. Amend Chapter 97, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9708. Overdose system of care.

(a) The Secretary shall create an overdose system of care to coordinate the treatment and care provided to individuals who have overdosed or require acute management of substance use disorder, including opioid use disorder.

(b)(1)The Secretary may adopt regulations, policies, and procedures to permit the Director of the Division of Substance Abuse and Mental Health to designate a facility as a stabilization center.

(2) A facility may be designated as a stabilization center if the facility meets federal and State requirements to receive a patient from Emergency Medical Services and can do all of the following:

a. Provide medical care and supervision after an overdose.

b. Provide medical care and supervision for acute management needs for substance use disorder.

c. Initiate medication-assisted treatment.

d. Refer individuals to other services.

(c)(1)The Secretary may adopt regulations, policies, and procedures to designate a facility as an overdose system of care center.

(2) The Secretary must use a guideline and evidence-based process as recommended by the Overdose System of Care Committee to determine designation criteria.

(d) The Secretary may adopt regulations, policies, and procedures to establish other distinct categories of care in the overdose care system as supported by evidence and recommended by nationally recognized guidelines and the Overdose System of Care Committee.

(e) The Secretary may suspend or revoke a designation under this section if a facility fails to meet the standards established under this section.

(f) The Director of the Division of Public Health may include an acute health care facility, hospital, freestanding emergency department, or emergency medical services provider in the overdose system of care if the entity does all of the following:

(1) Participates in the care of patients who have overdosed or require acute management for substance use disorder.

(2) Contributes data required by the Director of the Division of Public Health or the Director of the Division of Substance Abuse and Mental Health.

(3) Participates in overdose system of care quality improvement.

§ 9709. Overdose System of Care Committee.

(a) The Secretary shall establish an Overdose System of Care Committee to assist in oversight of the overdose system of care.

(1) The Co-Chairs of the Overdose System of Care Committee are as follows:

a. The Director of the Division of Public Health, or a designee appointed by the Director of the Division of Public Health.

b. The Director of the Division of Substance Abuse and Mental Health, or a designee appointed by the Director of the Division of Substance Abuse and Mental Health.

(2) The Overdose System of Care Committee must include all of the following, appointed by the Secretary:

- a. One member from the Department of Homeland Security.
- b. One member from the Department of Correction.
- c. One member from the Drug Overdose Fatality Review Commission.
- d. One member from the State Fire Prevention Commission.
- e. One member who is the Chair of the Behavioral Health Consortium.
- f. One member who is an advanced life support prehospital provider.
- g. One member who is a basic life support prehospital provider.
- h. One member who is an emergency medical dispatcher.
- i. One member who is a law-enforcement officer.
- j. One member from the Delaware Healthcare Association.
- k. One member who is an emergency medicine physician.

l. One member, or a designee appointed by the member, who is a hospital administrator from each acute health-care facility which holds or intends to seek designation as an overdose system of care center under § 9708 this title.

m. Three members who are addiction treatment professionals, such as a physician, nurse, mental health provider, Nationally Certified Peer Recovery Specialist, or treatment administrator.

(4) The Overdose System of Care Committee shall meet at least quarterly.

(5) The Overdose System of Care Committee may establish ad hoc committees as deemed appropriate.

(b) The Overdose System of Care Committee shall advise the Director of Public Health and the Director of the Division of Substance Abuse and Mental Health on all of the following:

(1) Improving outcomes for Delaware overdose patients that are based on Delaware drug misuse, overdose, and death data.

(2) Rules governing the operation of the overdose system of care facility, under § 9708 this title.

(3) Recommendations to improve or correct problems identified regarding the following:

a. Overdose system of care operations, including the monitoring for adherence to adopted policies, procedures, protocols, and standards.

b. The delivery of services by emergency medical services and health care service providers to overdose patients.

c. The availability of appropriate resources.

d. The periodic review of pre-hospital, hospital, freestanding emergency department, and stabilization center designation criteria.

(4) Recommendation for modifications of the policies, procedures, and protocols of the overdose system of care as a result of system-wide review.

(c) The Overdose System of Care Committee shall function in cooperation with the Behavioral Health Consortium, as well as other State health policy activities.

(d) The Overdose System of Care Committee may not do either of the following:

(1) Direct or interfere with a State agency or a service provider's internal review process for investigating and evaluating critical incidents and deaths.

(2) Direct Department of Health and Social Services resources, personnel, or activities.

Approved September 10, 2018