

Minnesota Overdose Fatality Review Data FAQ

The purpose of this FAQ is to explain some aspects of data sharing for **Overdose Fatality Reviews (OFRs)**. We want to ensure our partner sites serve as leaders in their respective communities (geographic or cultural) and conduct this work with the highest possible standards of care and respect for the data, the people, and the communities represented.

This FAQ is not legal advice. MDH cannot provide OFR partners with legal advice. OFR partners should consult their own legal counsel as necessary to understand their own independent obligations under applicable laws.

Minnesota Department of Health authority to collect data

Healthcare providers and other entities who have data about overdose deaths sometimes ask for information about MDH's authority to collect such data. As the state's official health agency, MDH has the authority to conduct studies and investigations, collect and analyze health and vital data, and identify and describe health problems (Minnesota Statutes, sections 144.05, 144.053). **These statutes authorize MDH to collect data for the purposes of OFR and other types of fatality reviews.**

Additionally, it may be helpful to refer healthcare providers to 45 C.F.R. § 164.512(b)(1)(i), which permits HIPAA covered entities to provide protected health information to a public health authority for certain public health-related purposes without an individual's authorization. **This statute means that healthcare providers are allowed under HIPAA to provide data on an individual to MDH without the individual's authorization for MDH to use in conducting OFRs.** Persons or entities that provide data to MDH in connection with a public health review aimed to reduce disease or death from any cause or condition of health are protected from civil liability (Minnesota Statutes, section 144.053, subdivision 3).

MDH has the authority to contract with other entities to conduct public health reviews on MDH's behalf or assist MDH with a public health review. In the performance of such contracts, MDH is authorized to share individual health data with the contractor and is authorized to have the contractor collect and use data for the contracted purposes on behalf of MDH. All the data created, collected, received, stored, used, maintained, or disseminated by the contractor in performing its contract functions is subject to the requirements of the Minnesota Government Data Practices Act, and the contractor must comply with those requirements as if it were MDH (Minnesota Statutes, section 13.05, subdivision 11).

Disclosure of information collected during an OFR

MDH contractors (including grantees) must consult with and receive direction from MDH before releasing any data or information collected and/or generated for OFRs in response to a subpoena, data request, or other request or demand for production of such data. Any disclosure of such data must comply with all applicable laws, including the Minnesota Government Data Practices Act (Minnesota Statutes, chapter 13).

OFR data managed by MDH

All OFR funded agencies will utilize a REDCap database to record data collected during each review. REDCap is a secure, web-based application for managing data. **Data entered into REDCap will only be accessible by authorized personnel at MDH and the authorized user(s) from the OFR-funded agency that entered the data.**

MDH will keep this data in accordance with the retention schedule. All OFR partners will be able to access and download the OFR data that they entered at any time.

Data sharing across state lines

If an OFR concerns a Minnesota resident who died of an overdose that occurred in another state, partners can make inquiries to the relevant law enforcement agency in that state to see if they are able to share information for purposes of the OFR.

MDH maintains a data sharing relationship with some agencies in North Dakota. OFR partners who are reviewing the death of a Minnesota resident who died of an overdose in North Dakota can contact Mary DeLaquil at MDH to see if information relating to the death can be obtained.

Best practices for protecting OFR data confidentiality

OFR partners must safeguard data and protect it from unauthorized disclosures. **Without consulting with and receiving permission from MDH, MDH contractors and grantees may not share data collected/generated for OFR with any person or entity other than members of the OFR team.** Before participating in an OFR, all members of the OFR team should have signed a confidentiality agreement agreeing to not share any information they see, learn, or discuss through their work with the OFR team. Any disclosure of such data must comply with all applicable law. Please note violation of the Minnesota Government Data Practices Act carries potential civil and criminal penalties. (Minnesota Statutes, sections 13.08 through 13.09).

Grantees must maintain OFR data in the REDCap database. OFR data cannot be stored on personal devices or any other unsecured or unauthorized device.

Unencrypted email is **not** a secure method of transmission, and OFR data should **not** be transmitted via unencrypted email. Use encrypted email to request information about the case.

Virtual review meetings must use a platform that ensures the security of data and discussions. For virtual review meetings, it is recommended that partners use platforms that meet HIPAA technical specifications. Skype, WebEx, Teams, and ZoomPro are all secure, approved platforms to use for data sharing that are HIPAA compliant.

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