Use Case: Fatality and Mortality Review Team

Overview

Established pursuant to W. Va. Code § 61-12A-1 *et seq.* and W. Va. C.S.R. § 64-29-1 *et seq.*, the Fatality and Mortality Review Team ("FMRT") is a multidisciplinary team which operates under the West Virginia Department of Health & Human Resources, Bureau for Public Health ("BPH"). The FMRT was created to oversee and coordinate the examination, review, and assessment (collectively "Investigations") of the following events (collectively "Events," and each individually an "Event"):

(1) The deaths of all persons in West Virginia who die as a result of unintentional prescription or pharmaceutical drug overdoses;

(2) The deaths of children under the age of eighteen years;

(3) The deaths resulting from suspected domestic violence; and

(4) The deaths of all infants and all women who die during pregnancy, at the time of birth or within one year of the birth of a child.

As further detailed herein, the FMRT, the CME (as defined herein), and/or the OMCFH (as defined herein) may from time-to-time request the West Virginia Health Information Network (the "WVHIN") to provide certain information for use in the Investigation of Events. This public use case examines the legal basis, mechanism, and public policy goals which may attained by providing the FMRT, the CME, and/or the OMCFH with information in response to requests for use in the Investigation of Events.

Technical Design

Technical capability exists to implement this public use case.

Use Case Description

W. Va. Code § 61-12A-2 *et seq*. and W. Va. C.S.R. § 64-29-5 *et seq.* establish four (4) "advisory panels" of the FMRT (collectively the "Panels") to conduct Investigations corresponding to each respective Event:

(1) an unintentional pharmaceutical drug overdose fatality review panel (the "Pharmaceutical Drug Overdose Panel");

(2) a child fatality review panel (the "Child Fatality Panel");

(3) a domestic violence fatality review panel (the "DV Fatality Panel"); and

(4) an infant and maternal mortality review panel (the "IM Mortality Panel").

The Chief Medical Examiner (an office within BPH) or his or her designee ("CME"), serves as the chairperson of the FMRT. In addition to serving as the chairperson of the FMRT, the CME is the chairperson of, and is specifically responsible for calling and coordinating all meetings for, the Pharmaceutical Drug Overdose Panel, the Child Fatality Panel, and the DV Fatality Panel. *See* W. Va. C.S.R. §§ 64-29-7 through 12. The Director of the Office of Maternal, Child and Family Health (also part of the BPH) ("OMCFH") serves as the chairperson of the IM Mortality Panel and is responsible for calling and coordinating its meetings. *See* W. Va. C.S.R. §§ 64-29-13.

West Virginia law affords the FMRT and the Panels the ability to request information and records as necessary to conduct Investigations of the Events. *See* W. Va. Code § 61-12A-3 *et seq*. Specifically, the FMRT and the Panels may request, *inter alia*: medical, dental, mental health, and substance abuse records (to the extent disclosure of substance abuse records is permitted by federal law). W. Va. Code §§ 61-12A-3(a)(1)-(2).

Consistent with W. Va. Code §§ 61-12A-3(a)(1)-(2), the FMRT, the CME (in its capacity as the chairperson of the FMRT and its respective Panels), and/or the OMCFH (in its capacity as the chairperson of the IM Mortality Panel) may, from time-to-time, request information and records from the WVHIN relating to the Investigation of Events on an as-needed basis, and if appropriate, the WVHIN will provide responsive information and records to the FMRT, the CME, and/or the OMCFH (the "Arrangement").

CME and OMCFH will provide patient panels ("Patient Panels") to the WVHIN, the WVHIN will compare the Patient Panel to its Master Patient Index and, to the extent available, provide access to corresponding data avaialble via the WVHIN to CME or OMCFH, as applicable.

The Arrangement is permissible under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). HIPAA permits the disclosure of protected health information ("PHI") (without patient authorization) to a public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions (collectively the "Public Health Purposes"). 45 C.F.R. § 164.512(b)(1)(i). The Arrangement encompasses the disclosure of PHI to the FMRT, the CME, and/or the OMCFH, which are all part of (and/or acting under the authority of) the BPH. The disclosure is therefore to a "public health authority." *See* 45 C.F.R. § 164.501. Moreover, the FMRT and Panels' Investigation of the Events is for Public Health Purposes, as it seeks information to prevent or control disease, injury, or disability, and because it constitutes a public health investigation/surveillance. *See* 45 C.F.R. § 164.512(b)(1)(i).

Notwithstanding the foregoing, the WVHIN shall not provide any information as part of the Arrangement if prohibited by applicable federal or state law (including, but not limited to, 42 C.F.R. Part 2). In addition, unless required by law, this public use case shall not be construed as an obligation for the WVHIN to provide any information pursuant to a request by the FMRT, the CME, and/or the OMCFH, and any such response and its contents (if any) shall be made by the WVHIN in its sole discretion.

By providing a direct point of contact for requests, the Arrangement will improve the efficiency of Event Investigations for the FMRT/Panels and health record custodians alike. This public use case will therefore promote the efficiency and accessibility of pertinent health information to be used during Event Investigations, and will serve to improve the Investigation process and its outcomes. This result furthers the mission of the WVHIN by aiding the Investigation of deaths attributable to diseases or other conditions which might constitute a threat to public health or safety.

Opt-Out Applicability

If a patient opts out of WVHIN, the WVHIN will not provide such patient's information in responses as part of the Arrangement.

Eligible Participants

The FMRT, the CME (in its capacity as chairperson of its respective Panels), and/or the OMCFH (in its capacity as chairperson of the IM Mortality Panel).

Approval

This Public Health Use Case Policy will become effective upon approval from the WVHIN Clinical Committee, its Board of Directors, and applicable notice to WVHIN participants about this Policy.