SENATE COMMITTEE ON HEALTH
Senator Dr. Susan Talamantes Eggman, Chair

BILL NO: SB 67
AUTHOR: Seyarto
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HEARING DATE: April 19, 2023
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SUBJECT: Controlled substances: overdose reporting

SUMMARY: Requires emergency services providers to report actual or suspected overdoses to the Emergency Medical Services Agency, which is then required to submit this data to the Overdose Detection Mapping Application Program (ODMAP) managed by the Washington/Baltimore High Intensity Drug Trafficking Area program. Requires a coroner or medical examiner to report deaths that are a result of an overdose to ODMAP.

Existing law:

1) Establishes the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act (EMS Act) to provide for a statewide system for emergency medical services (EMS), and establishes the Emergency Medical Services Authority (EMSA), which is responsible for the coordination and integration of all state activities concerning EMS, including the establishment of minimum standards, policies, and procedures. [HSC §1797, et seq.]

2) Requires EMSA, utilizing regional and local information, to assess each EMS area or the system's service area for the purpose of determining the need for additional emergency services, and the coordination and effectiveness of EMS. Requires EMSA to develop planning and implementation guidelines for EMS systems which address specified components, including communications, system organization and management, and data collection and evaluation. [HSC §1797.102 and §1797.103]

3) Authorizes counties to develop an EMS program and designate a local EMS agency (LEMSA) responsible for planning and implementing an EMS system, which includes day-to-day EMS system operations. [HSC §1797.200, et seq.]

4) Requires an EMS provider to do both of the following when collecting and submitting data to a LEMSA: a) use an electronic health record system that exports data in a format that is compliance with the current versions of the California Emergency Medical Services Information System (CEMSIS) and the National Emergency Medical Services Information System (NEMSIS) standards; and b) ensure that the electronic health record system can be integrated with the LEMSA's data system. [HSC §1797.227]

5) Requires the Attorney General to encourage research on misuse and abuse of controlled substances, and in connection with the research, among other things, to authorize hospital and trauma centers to share information with local law enforcement agencies, EMSA, and LEMSAs about controlled substance overdose trends. Requires the information provided by hospitals and trauma centers to only include the number of overdoses and the substances suspected as the primary cause of the overdose, and requires any information to be shared in a manner that ensures complete patient confidentiality. [HSC §11601]

6) Requires a county coroner to inquire into and determine the circumstances, manner, and cause of certain deaths, including all violent, sudden, or unusual deaths, and deaths due to drug addiction, among other types of deaths. [GOV §27491]

7) Permits a county Board of Supervisors to abolish the office of coroner and provide instead for the office of medical examiner, as specified, and requires the medical examiner to be a licensed physician and surgeon duly qualified as a specialist in pathology. [GOV §24010]

This bill:

1) Requires an EMS provider who treats and releases an individual or transports an individual to a medical facility who is experiencing a suspected or an actual overdose to report the incident to EMSA.

2) Requires a coroner or medical examiner who evaluates an individual who died, in the coroner or medical examiner's expert opinion, as the result of an overdose as a contributing factor, to report the incident to ODMAP managed by the Washington/Baltimore High Intensity Drug Trafficking Area program.

3) Define various terms for purposes of this bill, including the following:

    a) "EMS provider" means a person employed by a local EMS agency to provide prehospital EMS, transportation, or both;
    b) "Overdose" means a condition, including extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death, resulting from the consumption or use of any controlled dangerous substance that requires medical attention, assistance, or treatment, and clinic suspicion for drug overdose, including respiratory depression, unconsciousness, or altered mental state, without other conditions to explain the clinical condition.

4) Requires a report of an overdose made under this bill to include the following:

    a) The date and time of the overdose;
    b) The approximate address where the overdose victim was initially encountered or where the overdose occurred;
    c) Whether an opioid overdose reversal drug was administered; and,
    d) Whether the overdose was fatal or nonfatal.

5) Requires the overdose report to be made as soon as possible, but no later than 72 hours after evaluating, transporting, or providing services to the individual.

6) Requires EMSA to submit data gathered pursuant to this bill to ODMAP.

7) Prohibits overdose information reported by an EMS provider or by EMSA from being used for a criminal investigation or prosecution.

8) Provides immunity from civil or criminal liability to persons who in good faith make a report under this bill.

9) Requires, on or before January 1, 2025, CDPH to provide a report to the Senate and Assembly Committees on Health regarding the reporting of overdose information to ODMAP under this bill, and requires this report to include the following information:

   a) The number of overdoses reported and the approximate locations where the overdoses occurred, including any clusters of overdoses;
   b) Who made the reports; and,
   c) How the reports were used for public health and public safety responses, the outcomes of the public health and public safety interventions, and the impact on affected communities.

10) States the intent of the Legislature that the overdose information gathered pursuant to this bill be used for the purpose of making decisions regarding the allocation of public health and educational resources to communities adversely impacted by the use of drugs that lead to overdoses.

FISCAL EFFECT: This bill has not been analyzed by a fiscal committee.

COMMENTS:

1) *Author's statement.* According to the author, Californians are falling victim to drug dealers who prey on the potency and availability of illicit drugs and opioids, like fentanyl. While each state, local, and federal departments uses its own program to track and report overdose incidents, currently, there is no uniform sharing of overdoses that include emergency medical services agencies, coroners, and fire departments. Limited to only authorized personnel and eliminating all personal identifiable information, ODMAP provides an essential tool for first responders on the frontlines of the opioid epidemic to effectively track and address live patterns of overdoses.

2) *Background on EMS.* While EMSA is the lead agency and centralized resource to oversee emergency and disaster medical services, day-to-day EMS system management is the responsibility of the local and regional EMS agencies. California has 34 local EMS agency systems that provide EMS for California's 58 counties. Regional systems are usually comprised of small, more rural, less-populated counties and single-county systems generally exist in the larger and more urban counties. The EMS Act comprehensively regulates emergency medical care in California. Enacted in 1980, the EMS Act provides for the creation of emergency medical procedures and protocols, certification of emergency medical personnel, and coordination of emergency responses by fire departments, ambulance services, hospitals, specialty care centers, and other providers within the local EMS system.

3) *NEMSIS and CEMSIS.* NEMSIS was formed in 2001 by the National Association of State EMS Directors, in conjunction with the National Highway Traffic Safety Administration and the Trauma/EMS Systems program of the Health Resources and Services Administration's Maternal Child Health Bureau, in order to develop a national EMS database. NEMSIS is the national repository that is used to store EMS data from every state in the nation, and was developed to help states collect more standardized elements to allow submission to the national database.

   According to EMSA, CEMSIS is a demonstration project for improving EMS data analysis across California. CEMSIS offers a secure, centralized data system for collecting data about individual EMS requests, patients treated at hospitals, and EMS provider organizations. CEMSIS uses the NEMSIS standard for how patient care information resulting from a 911

call for emergency assistance is collected. EMSA states that 33 of California's 34 LEMSAs currently send a variety of local data collections to CEMSIS, and in return, these local agencies gain access to digital tools for running comprehensive reports on their own data at no cost. Only Los Angeles (LA) County EMS Agency is still in a testing phase, and EMSA states that it expects to start receiving LA County data through CEMSIS beginning on July 1st of this year. According to EMSA, it uses the data to develop and coordinate high quality emergency medical care in California through activities such as healthcare quality programs that monitor patient care outcomes, agency collaboration across jurisdictional boundaries, and public health surveillance.

4) *Background on ODMAP*. In 1988, Congress created the High Intensity Drug Trafficking Areas (HIDTA) program to provide assistance to federal, state, local, and tribal law enforcement agencies operating in areas determined to be critical drug-trafficking regions of the United States. There are currently 33 HIDTAs, including four in California: Central Valley, Northern California, LA, and San Diego/Imperial Valley. In January of 2017, the Washington/Baltimore HIDTA launched ODMAP as a response to the lack of a consistent methodology to track overdoses, which limited the ability to understand and mobilize against the crisis. According to the Washington/Baltimore HIDTA, ODMAP is an overdose mapping tool that allows first responders to log an overdose in real time into a centralized database in order to support public safety and public health efforts to mobilize an immediate response to a sudden increase, or spike, in overdose events. ODMAP is only available to government agencies serving the interest of public safety and health, and each agency wishing to use the system must sign a participation agreement designed to rpote3ct the data within the system. The system currently serves more than 3,700 agencies with more than 28,000 users in all 50 states, and has logged 850,000 overdose events. According to the Washington/Baltimore HIDTA, there are seventeen states with statewide implementation strategies, including several with legislation requiring reporting to ODMAP.

5) *EMSA already sharing data with ODMAP*. In July of 2022, EMSA entered into a data sharing agreement with ODMAP, including developing an application programming interface (API) to allow data sharing from the CEMSIS reporting system. According to EMSA, the system allows near real-time data sharing: as soon as an EMS provider closes out a call and completes the electronic record, the data is submitted to CEMSIS and if the incident is coded as an overdose, that information is then shared with ODMAP (though without personally identifiable information such as name, exact birth date, and exact address). Generally speaking, the data sharing happens nearly instantaneously, however, there could be a delay of one to two days, depending on the region of California and internet connectivity. Once the LA County EMS Agency starts reporting via CEMSIS in July of this year, overdose data from all EMS providers will be shared with ODMAP if the incident record is correctly coded as an overdose or suspected overdose. According to EMSA, because the agreement with ODMAP is less than a year old, they are still working out some kinks. For instance, if an EMS provider does not enter the keywords associated with an overdose correctly, the API may not trigger the system to share the overdose information with ODMAP. EMSA states they are continuing to work with LEMSAs to improve the accuracy of the data shared with ODMAP to ensure the overdose reporting is as complete as possible.

6) *CDPH Overdose Dashboard*. As part of CDPH's Opioid Prevention Initiative, CDPH maintains the California Overdose Surveillance Dashboard (Dashboard). The Dashboard tracks deaths related to any opioid overdose, deaths related specifically to fentanyl,

emergency department visits related to any opioid overdose, and the number of prescriptions for opioids. The data for deaths comes from death certificate data from CDPH's Center for Health Statistics and Informatics, both preliminary quarterly data and the Comprehensive Master Death File that is filed annually. The data for emergency department visits and hospitalizations comes from annual hospital Emergency Care Data Record reports and hospital discharge data reports collected and maintained by the Department of Health Care Access and Information. However, due to the time lag of the source data for this information, the overdose data available on the Dashboard for both deaths and emergency department visits/hospitalizations is only finalized for 2021, with preliminary data available through the second quarter of 2022. According to the Dashboard, there were 7,175 deaths related to opioids, and 21,016 emergency department visits for opioid overdoses, for the year 2021. The preliminary data for the first two quarters of 2022 shows 3,214 deaths, and 10,354 emergency department visits.

7) *Double referral.* This bill is double referred. Should it pass out of this committee, it will be referred to the Senate Committee on Public Safety.

8) *Related legislation.* SB 10 (Cortese) requires local educational agencies and county offices of education (COEs) to include strategies for the prevention and treatment of an opioid overdose in their school safety plans and for the California Department of Education (CDE) to develop training materials on the use of emergency opioid antagonists for school personnel, and safety materials for parents, guardians, and pupils in conjunction with the California Health and Human Services Agency. *SB 10 is set to be heard in this Committee on April 12, 2023.*

   SB 234 (Portantino and Umberg) requires schools, college campuses, stadiums, concert venues, and amusement parks to, at all times, maintain unexpired doses of naloxone hydrochloride or any other opioid antagonist. Requires these entities to ensure that at least two employees are aware of the location of the naloxone or other opioid antagonist. *SB 234 is set to be heard in this Committee on April 12, 2023.*

   SB 472 (Hurtado) requires each individual public school operated by a school district, COE, or charter school to maintain at least two doses of naloxone or another opioid antagonist, and to report to CDE and DHCS on or before July 31, 2024, and annually thereafter, certain information regarding opioid antagonists. *SB 472 is set to be heard in this Committee on April 12, 2023.*

   AB 19 (Patterson) requires each public school operated by a school district, COE, or charter school to maintain at least two doses of naloxone or another opioid antagonist, as specified. *AB 19 is set to be heard in the Assembly Education Committee on April 12, 2023.*

   AB 24 (Haney) requires a person or entity that owns, manages, or is responsible for a bar, gas station, public library, or single-room occupancy hotel in a county that is experiencing an opioid overdose crisis to acquire and post an opioid antagonist kit in areas that are readily accessible only by employees, including, but not limited to, a break room, and to restock the opioid antagonist kit after each use. *AB 24 is set to be heard in the Assembly Health Committee on April 11, 2023.*

   AB 40 (Rodriguez) requires EMSA to adopt emergency regulations to develop an electronic signature for use between emergency department and EMS personnel, a statewide 20 minute

standard for patient offload times, and an audit tool to improve the accuracy of such data. *AB 40 passed the Assembly Emergency Management Committee by a vote of 5-0 on March 27, 2023.*

AB 379 (Rodriguez) requires LEMSAs to adopt policies and procedures for calculating and reporting ambulance patient offload times. *AB 379 is set to be heard in the Assembly Emergency Management Committee on April 17, 2023.*

9) *Prior legislation.* AB 1129 (Burke, Chapter 377, Statutes of 2015) requires an emergency medical care provider, when submitting data to a LEMSA, to use an electronic health record system that is compatible with specified standards, and that includes those data elements that are required by the LEMSA.

   AB 503 (Rodriguez, Chapter 362, Statutes of 2015) authorizes health facilities to release patient-identifiable medical information to an EMS provider and LEMSA when specific data elements are requested for the purpose of quality assessment and improvement.

10) *Support.* Fresno County writes in support that there is currently a web of methods to report overdose incidents that has led to a lack of cohesion in information sharing. Fresno County states that ODMAP draws upon existing systems to auto-populate information in their reports, and has the added feature of being limited to only authorized personnel and scrubbing all personal identifiable information, removing privacy concerns. Chino Valley Chamber of Commerce states this bill will enroll all of California's emergency departments and agencies who are on the frontlines of the opioid epidemic into this free universal information sharing program. Parents and Addicts in Need (PAIN) makes similar arguments in support. The Shasta Substance Use Coalition states that for the most impact, it is important to know where and when overdoses are occurring as close to real-time as possible.

11) *Opposition.* Oakland Privacy states in opposition that the data in ODMAP is, in essence, information about victims. When we use them as data points for surveillance intelligence, we are mixing together health and policing functions, which inevitably reduces the ability of public health workers to penetrate into communities because they seem to be an arm of the police. Oakland Privacy states that it is not clear that addicts avoiding emergency rooms because of overdose databases advances public health goals. According to Oakland Privacy, much has been written about the ways that geolocation data can be utilized even when it is aggregated and anonymized, and that the training materials for ODMAP encourage law enforcement agencies to overlay ODMAP data with other law enforcement data to seek out patterns. Oakland Privacy states that the provision of this bill prohibiting any information from ODMAP from being used for the investigation or prosecution of a crime has limitations, and points out that immigration is a civil matter, not a criminal one, and that both Immigration and Customs Enforcement and U.S. Customs and Border Patrol have open access to ODMAP data. According to Oakland Privacy, it is simply not possible to mandate that the information provided to the ODMAP database "not be used to prosecute or investigate any individual," because the California Legislature does not have jurisdiction over law enforcement agencies in other states, nor does it have any jurisdiction over various federal law enforcement agencies. Oakland Privacy states that it understands the opioid problem is immense, and that data can be a useful tool, but technology always introduces pitfalls along with its benefits, and that California should not mandate participation in the ODMAP database.

12) *Is this bill necessary?* As noted above, EMSA has already entered into a data sharing agreement with ODMAP that shares all overdose-related incidents that are logged with CEMSIS. Once LA County EMS Agency begins using CEMSIS to report data, which is anticipated to begin in July of this year, all EMS providers in the state of California will be reporting data to CEMSIS, which means ODMAP will be getting all EMS overdose reports. While there still may be a discrepancy between what is reported to CEMSIS and the actual number of overdoses that EMS providers are responding to, this is likely to be related to EMS providers not correctly inputting data into this system, which is something that EMSA is aware of and working to address.

13) *Drafting concerns and suggested amendments.*

a) *The definition of "emergency medical services provider" needs to be revised.* First, the definition states that it is a person employed by a LEMSA or its designee. However, LEMSAs are generally not the employer of prehospital emergency medical personnel. Instead, individual fire departments or ambulance companies employ emergency medical technicians (EMTs) at various levels (EMT-Is, EMT-IIs, and EMT-P or paramedics) to treat people experiencing a medical emergency and to transport them to a hospital when appropriate. The ambulance companies and fire departments operate under the medical control of the LEMSA, which establishes policies and procedures governing the provision of prehospital medical care. Further, the term "provider" in the context of emergency services often refers to the actual fire department or ambulance company, which provides prehospital response services.

b) *Reporting burden should reflect the way data is reported.* Current law requires an emergency medical care provider (in this context, this means the fire department or the ambulance company) to collect and submit data to the LEMSA, using an electronic health record system that exports data in a format that is CEMSIS compliant. To be consistent with how data is collected, the author may wish to revise this bill to make it clear that EMS providers have the duty to report overdose incident information to the LEMSA which has oversight responsibility over the EMS providers in their area. LEMSAs, in turn, report that data to EMSA, and EMSA shares the data with ODMAP. Because this is done via an electronic reporting system that allows instantaneous sharing, it should still have the effect of being in real time for ODMAP.

SUPPORT AND OPPOSITION:

Support: Chino Valley Chamber of Commerce
County of Fresno
Parents & Addicts in Need
Shasta Substance Use Coalition

Oppose: Oakland Privacy

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