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Pennsylvania drug treatment centers violated regulations by failing to make timely reports of 23 deaths; no fines issued

By **FORD TURNER**
THE MORNING CALL | APR 01, 2021 AT 9:00 AM



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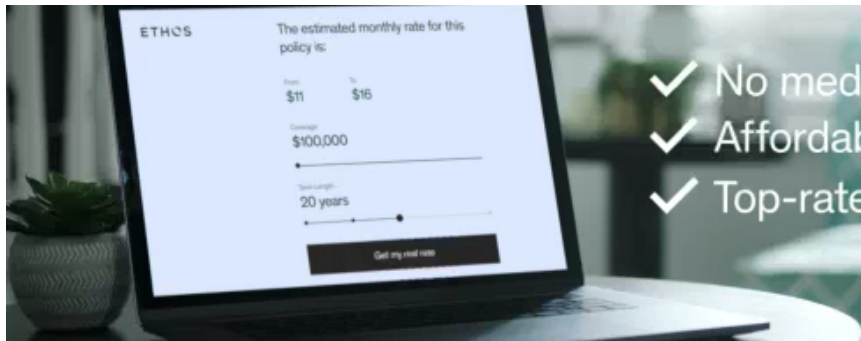
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HARRISBURG — Pennsylvania-licensed drug abuse treatment centers have gone unpunished for failing to make timely reports of at least 23 client deaths, 17 assaults and dozens of incidents involving police, fire or ambulance crews, a Morning Call review of state reports shows.

The newspaper uncovered the figures by examining the latest public inspection reports for the roughly 800 centers that are on the front lines in the state’s battle against overdose deaths.

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Pennsylvania drug treatment centers violated regulations by failing to make timely reports of 23 deaths; no fines issued

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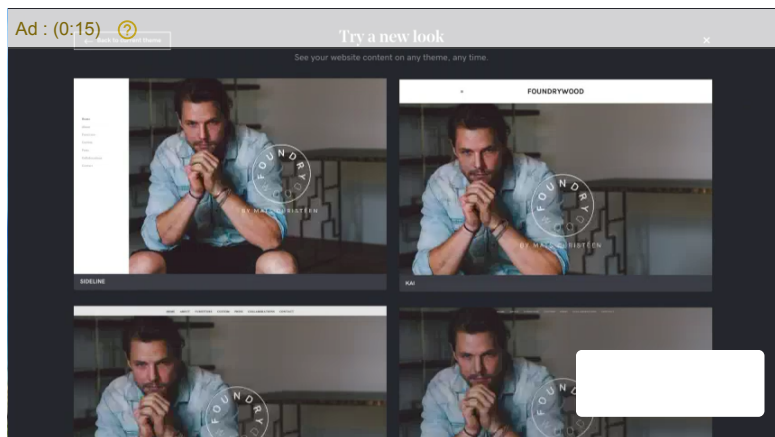
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Pennsylvania [had the third-highest total of overdose deaths in the nation](#), according to the federal government’s latest 12-month preliminary count, but it does not keep a tally of what it calls “unusual incidents” at treatment centers.

The state notifies centers of violations of a regulation that requires reports within three business days of those incidents, which include client deaths and assaults.

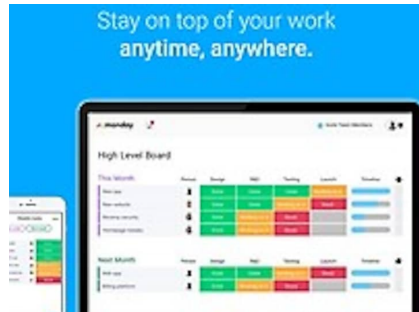
But the state Department of Drug and Alcohol Programs could not provide a total number of violations of that regulation. A spokeswoman said that while the agency can tell how many client

deaths have been reported at a specific facility, it “would be extremely time-consuming to go through past citations for all 800-plus facilities to tally up the total deaths.”

Failures to report unusual incidents in a timely fashion, however, are just some of the thousands of violations shown in the agency’s public database.

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None of them trigger fines because the Pennsylvania agency — unlike counterparts in some other states — does not have authority to levy them. The agency requires the centers, which include both nonprofits and for-profit entities, to submit written plans of correction for violations. Those plans are then posted in the database.

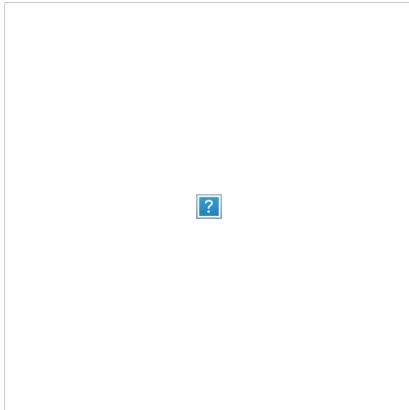
The lack of data is deeply disturbing, said state Sen. Judy Schwank, a Berks County Democrat, adding the situation warrants a review by the General Assembly.

“How do we ever have any handle on how these facilities are functioning if upon the most egregious kind of incidents — quoting sexual assaults and deaths, even worse — we have no record of them, no accounting of them,” Schwank said.

Told of the newspaper’s review, state Rep. Mark Gillen, a Berks County Republican, said the agency’s oversight of drug treatment centers appeared “toothless,” and the number of unreported or late-reported deaths is alarming.

“There seems to be a very cavalier attitude on the part of these providers with regards to the inspection regimen,” he said. “It is extraordinarily concerning because that is exactly what we are trying

to prevent in this Commonwealth: a loss of life in this crisis.”



State Rep. Mark Gillen, a Berks County Republican, said state oversight of the drug abuse treatment system appeared “toothless.” (Handout / Special to The Morning Call)

Ongoing disaster

The drug overdose crisis in Pennsylvania has been under a state “disaster” declaration, issued by Gov. Tom Wolf, for 38 months.

[Pennsylvania ranks third in the nation](#) — sixth on a per-capita basis — in a preliminary count of people lost to drug overdoses in the most recent 12 months for which data is available, with

5,197.

The department’s wording of violations involving deaths often does not indicate where they occurred, but in 11 of the 23 instances, it says “off site.” In most cases, the wording also does not spell out whether the death was reported late, or not at all.

Asked if residents should be concerned, governor’s office spokeswoman Rachel Kostelac said, “Our primary concern is client safety. We work with providers to have a collaborative relationship, provide technical assistance, and work with them to be compliant with regulations.”

Kostelac, who previously worked for the Department of Drug and Alcohol Programs, said people seeking treatment deserve to know what is happening and to be able to see histories of treatment facilities.

That, she said, is why inspection results are made public. [They are located on the agency’s website.](#)

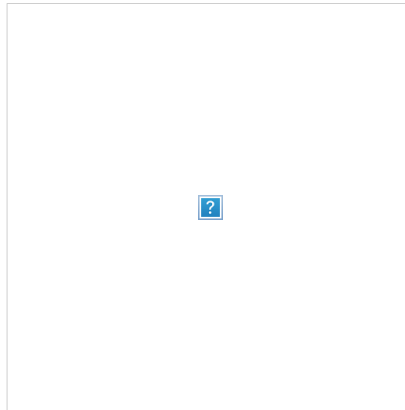
The state’s lack of comprehensive information on unusual incidents, such as deaths at the centers, Kostelac said, is due to the limitations of its electronic system.

“Unfortunately, there is no easy way to find this data using our current system,” she said.

A new system expected to debut in 2023 should help things, she said.

Schwank said putting information on the website is not enough.

“There is a difference between transparency and ease of use and the ability to get these facts very quickly,” Schwank said. “I understand what they are doing, but it just simply is not enough. I think the public will be very shocked, you know, that this is so loosely regulated, fined and reported.”



Sen. Judy Schwank, a Berks County Democrat, has introduced legislation to have treatment centers pay for their licenses, and she supports the concept of fines for violations of regulations. (CONTRIBUTED PHOTO)

185 separate incidents

Besides deaths and serious injuries, other unusual incidents that must be reported to the state are physical and sexual assaults; police, fire or ambulance personnel visits; service disruptions and disease outbreaks.

The review of the most recent inspection reports — carried out by The Morning Call over four days in early March — found 59 violations of that regulation.

A failure to make timely reports on deaths, assaults and more

The Morning Call in early March reviewed the most recent publicly available inspection reports for Pennsylvania substance abuse treatment centers. Among the violations of state code observed but unpunished by fines were many instances of failure to report in a timely manner "unusual incidents" - including client deaths - to the state. Here are the centers that had such violations, with a key for the types of unusual incidents below:

This key shows the type of incident(s) the state said the facility failed to report in writing within 3 business days:

- A** Physical or sexual assault by staff or a client.
- B** Death or serious injury due to trauma, suicide, medication error or unusual circumstances.
- C** Significant disruption of services due to a disaster such as a fire, storm, flood or

other occurrence that results in the closure of a facility for more than 1 day.

D Event at the facility requiring the presence of police, fire, or ambulance personnel.

E Outbreak of a contagious disease requiring CDC notification.

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*Closed since inspection took place

Source: Pennsylvania Department of Drug and Alcohol Programs inspection reports

Data compiled by Ford Turner, Graphic by Jesse Musto/The Morning Call

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Treatment Center Fines
Infogram

But many of the violations covered multiple events. In fact, inspectors' descriptions of what they found at the centers revealed at least 185 separate incidents covered by the violations, including the 23 deaths

separate incidents covered by the violations, including the 23 deaths.

For instance, a single violation identified at Gaudenzia Montgomery County Outpatient in Norristown, Montgomery County, said it had no documentation at the facility that three separate, off-site deaths of clients were reported to the Department of Drug and Alcohol Programs.

A spokesman for Gaudenzia, Kevin Shinkle, said, "The incidents were reported within three days to the Pennsylvania Department of Health instead of DDAP."

A Department of Health spokeswoman, asked for comment on the treatment center's statement, said all deaths are required to be reported to the department under the Vital Statistics Law.

A violation found at Pyramid Healthcare Inc. Monroe Outpatient indicates the facility had a client death on March 18, 2019 in its records, but "there was no documentation that the report was sent to DDAP," the inspection narrative said.

Facility director Tamara Orlando said the incident was too far in the past for her to recall specifics about its reporting.

State inspections, she said, are important.

"They have to make sure facilities are complying," she said. "Directly or indirectly, it does affect the clients."

A violation found at Alternative Counseling Associates of Pottstown says the facility failed to report a police visit to the facility on June 12, 2020 following a verbal confrontation between two employees that escalated.

Director Kathleen Curtin said it was a clerical error.

"It was reported, just not within the timeframe," she said.

A violation found at Treatment Trends Inc.-Halfway Home of the Lehigh Valley in Allentown says it failed to report 17 incidents during 2019 that the agency described as "nine that required the presence of the police at the facility, two events that required the presence of fire personnel, and six events that required the presence of ambulance personnel at the facility."

Treatment Trends Inc. operates three facilities in Lehigh County.

Executive Director John Dillensnyder III said the unusual incident language in the state inspection report was tied to misunderstandings involving the former director of the facility on South Fifth Street.

The two fire calls, he said, were for a false alarm and a toaster that set off a smoke detector. He could not recall specifics of others.

The inspection report, he said, led to a “tightening of policies and procedures.”

Violations without fines

For years, the department has required treatment centers to develop “correction plans” for their deficiencies, rather than fining them.

“When they do an inspection, they always sit down with you and do an exit interview,” Dillensnyder said. “Whatever they find, we use as a tool to improve our treatment.”

The unusual incident reporting violations counted by the newspaper were only a fraction of a much larger list of violations.

For instance, in the eight-county Lehigh Valley region alone — covering Lehigh, Northampton, Bucks, Montgomery, Berks, Schuylkill, Carbon and Monroe counties — treatment centers had a total of 746 state code violations logged in their most recent inspections.

There were failures to get informed consent and to obtain medical histories, violations involving broken furniture and use of space heaters, and violations involving outpatient counselor caseloads, client rights and logging of fire drills.

None drew fines because of the Department of Drug and Alcohol Programs’ inability to levy them.

Agency spokeswoman Alison Gantz said the department was in favor of a fine system, but said “the purpose of licensing is compliance with regulations, not punishment for violations.”

Other states, including New York, New Jersey and Maryland, can levy fines on licensed treatment centers that violate regulations, according to a 2017 audit report by then-Auditor General Eugene DePasquale.

At the time, he recommended that Pennsylvania follow suit.

“Having the ability to levy fines against providers who commit egregious licensing violations would provide a disincentive to those providers to establish practices that put citizens at risk,” DePasquale’s office said in an audit report.

Debate over change

The change would require an act of the Legislature.

Schwank has introduced bills [that would have treatment centers pay for their licenses](#) — they currently are free — and she favors a system that would allow fines for violations.

The bills have failed to advance.

Schwank said the treatment industry wields influence in Harrisburg and can limit oversight of their facilities. At the same time, she said, some lawmakers from rural areas might be wary of being more strict when treatment centers might be few and widely spaced in their areas.

She also noted that relapse — which sometimes results in overdose or even death — sometimes happens during recovery.

Nonetheless, Schwank said centers “shouldn’t be allowed to determine exactly how they are regulated.”

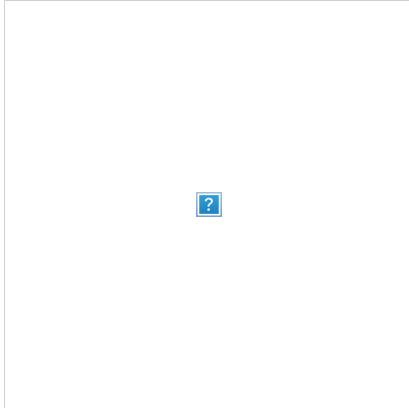
Fines would be inappropriate in a system where funding is insufficient, according to Richard Edley, president and CEO of RCPA, a trade organization whose members include more than 125 state-licensed treatment centers.

Many treatment centers in Pennsylvania, he said, provide services that cost more to deliver than the reimbursement the centers receive. Hence, they are financially strapped, he said.

To “turn around and say to providers, ‘We are going to sanction you for this and this’ would not be fair, Edley said.

Bad behavior should not be rewarded, according to Edley. But he believes state government working with providers to correct deficiencies, rather than issuing fines, is the right approach.

Kanil Navar sees the no-fine dynamic in an entirely different light.



Kapil Nayar, a former drug treatment center supervisor, thinks less oversight contributes to bad outcomes for clients. (Albert B. For/Albert B. For)

Nayar worked as a supervisor at Liberation Way, a Bucks County-based state-licensed treatment center that collapsed in a web of criminal activities that led to 11 arrests in 2019.

Nayar, a licensed counselor and insurance industry worker, testified before a grand jury about what he saw at Liberation Way, and he thinks less oversight

contributes to bad outcomes for clients. He is skeptical about the effectiveness of the state agency's approach to holding centers accountable.

"It should be more stern," he said.

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Ford Turner
The Morning Call

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Ford Turner is Capitol correspondent and an investigative reporter for The Morning Call in Harrisburg. He has worked at news outlets in other states, but much of his career has been spent in Pennsylvania.

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