

SPONSOR: Sen. Hansen & Sen. Brown & Sen. S. McBride & Rep. Bentz
Sens. Bonini, Ennis, Gay, Hocker, Lawson, Lockman, Lopez, Mantzavinos, Paradee, Pettyjohn, Pinkney, Poore, Richardson, Sokola, Sturgeon, Townsend, Walsh, Wilson; Reps. Baumbach, Briggs King, Heffernan, K. Johnson, Kowalko, Morrison, Michael Smith

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 292
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO NALOXONE AND OTHER OPIOID ANTAGONISTS.

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

Section 1. Amend Chapter 30G, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

CHAPTER 30G. ~~Naloxone~~ Opioid Antagonist Access Program.

§ 3001G. Administration of naloxone by public safety personnel and the Community-Based Naloxone Access Program.

~~(a) An individual who is public safety personnel is authorized to receive, carry, and administer the drug naloxone if the individual has completed a Department-approved training course. For purposes of this section, "public safety personnel" means as defined under § 9702 of this title.~~

~~(b) Public safety personnel who, acting in good faith and after completing a Department-approved training course, administers the drug naloxone to an individual whom the public safety personnel reasonably believes to be undergoing an opioid-related drug overdose is not liable for damages for injuries or death sustained to the individual in connection with administering the drug, unless it is established that such injuries or death were caused wilfully, wantonly, recklessly, or by gross negligence on the part of the public safety personnel who administered the drug.~~

~~(c) Nothing in this chapter mandates that an agency require its public safety personnel to carry or administer naloxone.~~

~~(d) Notwithstanding any other provision of law, the purchase, acquisition, possession or use of naloxone pursuant to this section shall not constitute the unlawful practice of a profession or violation of the Uniform Controlled Substances Act [§ 4701 et seq. of this title].~~

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~~(e) DHSS shall create written and uniform treatment and care plans for emergency and critical patients statewide that constitute the standing orders for the administration of naloxone by public safety personnel and participants in the Community-Based Naloxone Access Program. The treatment protocol for naloxone administration under this chapter must be approved and signed by the State EMS Medical Director, or the Medical Director or the Director of the Division of Public Health, Department of Health and Social Services. A doctor prescribing naloxone who, acting in good faith, directly or by standing order, prescribes or dispenses the drug naloxone to a person who completes an approved training program who, in the judgment of the health-care provider, is capable of administering the drug for an emergency opioid overdose, shall not be subject to disciplinary or other adverse action under any professional licensing statute, criminal liability, or liable for damages for injuries or death sustained to the individual in connection with administering the drug, unless it is established that such injuries or death were caused wilfully, wantonly, or by gross negligence on the part of the doctor who signed the standing order and protocol.~~

~~(f) DHSS is authorized to oversee the implementation and monitoring of the Public Safety Personnel and Community-Based Naloxone Access Programs.~~

~~(g) Pharmacists who dispense naloxone under this section must do so in good faith and with reasonable care. Unless it is established that the pharmacist caused injuries or death as a result of unreasonable care, wilfully, wantonly, or by gross negligence, a pharmacist is not subject to any of the following as a result of dispensing naloxone:~~

~~(1) Disciplinary or other adverse action under the professional licensing laws of this State.~~

~~(2) Criminal liability.~~

~~(3) Liability for damages for injuries or death.~~

~~(h) A lay individual who administers naloxone to an individual under the Community-Based Naloxone Access Program is rendering emergency care under § 6801 of this title.~~ [Repealed.]

§ 3002G. Definitions.

For purposes of this chapter:

(1) "Health-care practitioner" means an individual licensed under Title 24 as any of the following:

a. A physician.

b. An advance practice registered nurse.

c. A physician assistant.

(2) "Opioid antagonist" means naloxone or any other opioid antagonist that is approved by the United States Food and Drug Administration for emergency reversal of known or suspected opioid overdose.

(3) "Public safety personnel" means as defined in § 9702 of this title.

§ 3003G. Department responsibilities.

(a) The Department shall implement and monitor an Opioid Antagonist Access Program that authorizes public safety personnel and members of the public to receive, carry, and administer an opioid antagonist to an individual experiencing a known or suspected opioid overdose.

(b) The Department shall implement the Opioid Antagonist Access Program by creating written and uniform treatment protocols and care plans for emergency and critical patients statewide that constitute the standing orders for the administration of naloxone under subsection (a) of this section.

(c) In addition to the standing orders for naloxone under subsection (b) of this section, the Department may create written and uniform treatment protocols and care plans for emergency and critical patients statewide that constitute the standing orders for the administration of other opioid antagonists.

(d) Each treatment protocol and standing order for the administration of an opioid antagonist under this section must be approved and signed by 1 of the following:

(1) The State EMS Medical Director.

(2) The Medical Director, Division of Public Health.

(3) Director of the Division of Public Health.

(e) The Department shall approve 1 or more training programs in the administration of each opioid antagonist for which there is a standing order under this section.

§ 3004G. Opioid Antagonists; administration.

An individual who has completed an approved training program under § 3003G of this title may receive, carry, and administer an opioid antagonist to an individual who is believed to be experiencing an opioid overdose.

§ 3005G. Immunity.

(a) Notwithstanding any other provision of law, the purchase, acquisition, possession, or use of an opioid antagonist under this chapter does not constitute the unlawful practice of a profession or violation of the Uniform Controlled Substances Act, Chapter 47 of this title.

(b) A health-care practitioner who prescribes or dispenses an opioid antagonist, directly or by standing order, must do so in good faith and with reasonable care. Unless it is established that the health-care practitioner caused injuries or death as a result of unreasonable care, wilfully, wantonly, or by gross negligence, a health-care practitioner is not subject to any of the following as a result of prescribing or dispensing an opioid antagonist:

(1) Disciplinary or other adverse action under the professional licensing laws of this State.

(2) Criminal liability.

(3) Liability for damages for injuries or death.

(c) A pharmacist who dispenses an opioid antagonist under this chapter must do so in good faith and with reasonable care. Unless it is established that the pharmacist caused injuries or death as a result of unreasonable care, wilfully, wantonly, or by gross negligence, a pharmacist is not subject to any of the following as a result of dispensing an opioid antagonist under this chapter:

(1) Disciplinary or other adverse action under the professional licensing laws of this State.

(2) Criminal liability.

(3) Liability for damages for injuries or death.

(d) Public safety personnel who, acting in good faith, administers an opioid antagonist under this chapter, is not liable for damages for injuries or death sustained to the individual in connection with administering an opioid antagonist, unless it is established that such injuries or death were caused wilfully, wantonly, recklessly, or by gross negligence on the part of the public safety personnel who administered the opioid antagonist.

(e) A lay individual who administers an opioid antagonist to an individual under this chapter is rendering emergency care and is exempt from liability under § 6801 of this title.

§ 3006G. Limitations.

Nothing in this chapter mandates that an agency require its public safety personnel to carry or administer an opioid antagonist.