

SENATE, No. 85

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

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SYNOPSIS

Amends “Overdose Prevention Act” to clarify that pharmacists and health care practitioners may dispense opioid antidotes pursuant to standing order, and that prescribers may issue such standing order, with immunity from liability.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning overdose prevention, and amending P.L.2013,
2 c.46.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. Section 3 of P.L.2013, c.46 (C.24:6J-3) is amended to read
8 as follows:

9 3. As used in this act:

10 "Commissioner" means the Commissioner of Human Services.

11 "Dispense" means the act of handing out or otherwise
12 distributing a drug to a recipient, except that, when the term is used
13 in specific relation to a pharmacist, it shall mean the same as that
14 term is defined by section 2 of P.L.2003, c.280 (C.45:14-41).

15 "Drug overdose" means an acute condition including, but not
16 limited to, physical illness, coma, mania, hysteria, or death resulting
17 from the consumption or use of a controlled dangerous substance or
18 another substance with which a controlled dangerous substance was
19 combined and that a layperson would reasonably believe to require
20 medical assistance.

21 "Emergency medical response entity" means an organization,
22 company, governmental entity, community-based program, or
23 healthcare system that provides pre-hospital emergency medical
24 services and assistance to opioid or heroin addicts or abusers in the
25 event of an overdose.

26 "Emergency medical responder" means a person, other than a
27 health care practitioner, who is employed on a paid or volunteer
28 basis in the area of emergency response, including, but not limited
29 to, an emergency medical technician acting in that person's
30 professional capacity.

31 "Health care practitioner" means a prescriber, pharmacist, or
32 other individual whose professional practice is regulated pursuant to
33 Title 45 of the Revised Statutes, and who, in accordance with the
34 practitioner's scope of professional practice, prescribes or dispenses
35 an opioid antidote.

36 "Medical assistance" means professional medical services that
37 are provided to a person experiencing a drug overdose by a health
38 care practitioner, acting within the practitioner's scope of
39 professional practice, including professional medical services that
40 are mobilized through telephone contact with the 911 telephone
41 emergency service.

42 "Opioid antidote" means naloxone hydrochloride, or any other
43 similarly acting drug approved by the United States Food and Drug
44 Administration for the treatment of an opioid overdose.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Patient" means a person who is at risk of an opioid overdose or
2 a person who is not at risk of an opioid overdose who, in the
3 person's individual capacity, obtains an opioid antidote from a
4 health care practitioner, professional, or professional entity for the
5 purpose of administering that antidote to another person in an
6 emergency, in accordance with subsection **[c.] d.** of section 4 of
7 P.L.2013, c.46 (C.24:6J-4). "Patient" includes a professional who is
8 acting in that professional's individual capacity, but does not
9 include a professional who is acting in a professional capacity.

10 "Pharmacist" means an individual who is licensed and authorized
11 by law, pursuant to P.L.2003, c.280 (C.45:14-40 et seq.), to engage
12 in the practice of pharmacy, including the dispensing of drugs.

13 "Prescriber" means a health care practitioner authorized by law
14 to prescribe medications who, acting within the practitioner's scope
15 of professional practice, prescribes an opioid antidote. "Prescriber"
16 includes, but is not limited to, a physician, physician assistant, or
17 advanced practice nurse.

18 "Professional" means a person, other than a health care
19 practitioner, who is employed on a paid basis or is engaged on a
20 volunteer basis in the areas of substance abuse treatment or therapy,
21 criminal justice, or a related area, and who, acting in that person's
22 professional or volunteer capacity, obtains an opioid antidote from a
23 health care practitioner for the purposes of dispensing or
24 administering that antidote to other parties in the course of business
25 or volunteer activities. "Professional" includes, but is not limited
26 to, a sterile syringe access program employee, or a law enforcement
27 official.

28 "Professional entity" means an organization, company,
29 governmental entity, community-based program, sterile syringe
30 access program, or any other organized group that employs two or
31 more professionals who engage, during the regular course of
32 business or volunteer activities, in direct interactions with opioid or
33 heroin addicts or abusers or other persons susceptible to opioid
34 overdose, or with other persons who are in a position to provide
35 direct medical assistance to opioid or heroin addicts or abusers in
36 the event of an overdose.

37 "Recipient" means a patient, pharmacist, health care practitioner,
38 professional, professional entity, emergency medical responder, or
39 emergency medical response entity who is prescribed or dispensed
40 an opioid antidote in accordance with section 4 of P.L.2013,
41 c.46 (C.24:6J-4).

42 (cf: P.L.2015, c.10, s.1)

44 2. Section 4 of P.L.2013, c.46 (C.24:6J-4) is amended to read
45 as follows:

46 4. a. (1) A prescriber may prescribe an opioid antidote,
47 through a standing order, to any pharmacist or health care
48 practitioner in the State, as may be necessary to enable the

1 pharmacist or health care practitioner to dispense the opioid
2 antidote to third parties, in accordance with paragraph (2) of this
3 subsection.

4 (2) A prescriber may prescribe, and a pharmacist or other health
5 care practitioner **】, as appropriate,】** may **【prescribe or】** dispense ,
6 an opioid antidote:

7 (a) directly or through a standing order, to any recipient who is
8 deemed by the health care practitioner to be capable of
9 administering the opioid antidote to an overdose victim in an
10 emergency;

11 (b) through a standing order, to any professional or emergency
12 medical responder who is not acting in a professional or volunteer
13 capacity for a professional entity, or for an emergency medical
14 response entity, but who is deemed by the health care practitioner to
15 be capable of administering opioid antidotes to overdose victims, as
16 part of the professional's regular course of business or volunteer
17 activities;

18 (c) through a standing order, to any professional who is not
19 acting in a professional or volunteer capacity for a professional
20 entity, but who is deemed by the health care practitioner to be
21 capable of dispensing opioid antidotes to recipients, for
22 administration thereby, as part of the professional's regular course
23 of business or volunteer activities;

24 (d) through a standing order, to any professional entity or any
25 emergency medical response entity, which is deemed by the health
26 care practitioner to employ professionals or emergency medical
27 responders, as appropriate, who are capable of administering opioid
28 antidotes to overdose victims as part of the entity's regular course of
29 business or volunteer activities;

30 (e) through a standing order, to any professional entity which is
31 deemed by the health care practitioner to employ professionals who
32 are capable of dispensing opioid antidotes to recipients, for
33 administration thereby, as part of the entity's regular course of
34 business or volunteer activities.

35 **【(2)】** (3) (a) For the purposes of this subsection, whenever the
36 law expressly authorizes or requires a certain type of professional or
37 professional entity to obtain a standing order for opioid antidotes
38 pursuant to this section, such professional, or the professionals
39 employed or engaged by such professional entity, as the case may
40 be, shall be presumed by the prescribing or dispensing health care
41 practitioner to be capable of administering or dispensing the opioid
42 antidote, consistent with the express statutory requirement.

43 (b) For the purposes of this subsection, whenever the law
44 expressly requires a certain type of emergency medical responder or
45 emergency medical response entity to obtain a standing order for
46 opioid antidotes pursuant to this section, such emergency medical
47 responder, or the emergency medical responders employed or
48 engaged by such emergency medical response entity, as the case

1 may be, shall be presumed by the prescribing or dispensing health
2 care practitioner to be capable of administering the opioid antidote,
3 consistent with the express statutory requirement.

4 **[(3)] (4)** (a) Whenever a prescriber **[or other health care**
5 **practitioner prescribes or dispenses an opioid antidote to a**
6 **professional or professional entity]** issues a standing order pursuant
7 to **[a standing order issued under paragraph (1) of]** this subsection,
8 the standing order shall specify whether the **[professional or**
9 **professional entity]** recipient is authorized thereby to directly
10 administer the opioid antidote to overdose victims; to dispense the
11 opioid antidote to other recipients, for their administration to third
12 parties; or to both administer and dispense the opioid antidote. If a
13 standing order does not include a specification in this regard, it
14 shall be deemed to authorize the **[professional or professional**
15 **entity]** recipient only to administer the opioid antidote with
16 immunity, as provided by subsection c. or d. of this section, as
17 appropriate, and it shall not be deemed to authorize the
18 **[professional or professional entity]** recipient to engage in the
19 further dispensing of the antidote **[to recipients]**, unless such
20 authority has been granted by law, as provided by subparagraph (b)
21 of this paragraph.

22 (b) Notwithstanding the provisions of this paragraph to the
23 contrary, if the law expressly authorizes or requires a certain type of
24 **[professional, professional entity, emergency medical responder, or**
25 **emergency medical response entity]** recipient to administer or
26 dispense opioid antidotes pursuant to a standing order issued
27 hereunder, the standing order issued pursuant to this section shall be
28 deemed to grant the authority specified by the law, even if such
29 authority is not expressly indicated on the face of the standing
30 order.

31 **[(4)] (5)** Any prescriber , pharmacist, or other health care
32 practitioner who prescribes or dispenses an opioid antidote in good
33 faith, and in accordance with the provisions of this subsection, shall
34 not, as a result of the practitioner's acts or omissions, be subject to
35 any criminal or civil liability, or any professional disciplinary
36 action under Title 45 of the Revised Statutes for prescribing or
37 dispensing an opioid antidote in accordance with P.L.2013,
38 c.46 (C.24:6J-1 et **[seq.] al.**).

39 b. (1) Any professional or professional entity that has obtained
40 a standing order, pursuant to subsection a. of this section, for the
41 dispensing of opioid antidotes, may dispense an opioid antidote to
42 any recipient who is deemed by the professional or professional
43 entity to be capable of administering the opioid antidote to an
44 overdose victim in an emergency.

45 (2) Any professional or professional entity that dispenses an
46 opioid antidote in accordance with paragraph (1) of this subsection,
47 in good faith, and pursuant to a standing order issued under

1 subsection a. of this section, shall not, as a result of any acts or
2 omissions, be subject to any criminal or civil liability or any
3 professional disciplinary action for dispensing an opioid antidote in
4 accordance with P.L.2013, c.46 (C.24:6J-1 et **【seq.】 al.**).

5 c. (1) Any emergency medical responder or emergency
6 medical response entity that has obtained a standing order, pursuant
7 to subsection a. of this section, for the administration of opioid
8 antidotes, may administer an opioid antidote to overdose victims.

9 (2) Any emergency medical responder or emergency medical
10 response entity that administers an opioid antidote, in good faith, in
11 accordance with paragraph (1) of this subsection, and pursuant to a
12 standing order issued under subsection a. of this section, shall not,
13 as a result of any acts or omissions, be subject to any criminal or
14 civil liability, or any disciplinary action, for administering the
15 opioid antidote in accordance with P.L.2013, c.46 (C.24:6J-1 et
16 **【seq.】 al.**)

17 d. (1) Any person who is the recipient of an opioid antidote **【,**
18 which has been**】** prescribed or dispensed for administration
19 purposes pursuant to subsection a. or b. of this section, who is not
20 subject to the provisions of subsection c. of this section, and who
21 has received overdose prevention information pursuant to section 5
22 of P.L.2013, c.46 (C.24:6J-5), may administer the opioid antidote to
23 another person in an emergency, without fee, if the antidote
24 recipient believes, in good faith, that the other person is
25 experiencing an opioid overdose.

26 (2) Any person who administers an opioid antidote pursuant to
27 paragraph (1) of this subsection shall not, as a result of the person's
28 acts or omissions, be subject to any criminal or civil liability for
29 administering the opioid antidote in accordance with P.L.2013,
30 c.46 (C.24:6J-1 et **【seq.】 al.**).

31 e. In addition to the immunity that is provided by this section
32 for authorized persons who are engaged in the prescribing,
33 dispensing, or administering of an opioid antidote, the immunity
34 provided by section 7 or section 8 of P.L.2013, c.46 (C.2C:35-30 or
35 C.2C:35-31) shall apply to a person who acts in accordance with
36 this section, provided that the requirements of those sections, as
37 applicable, have been met.

38 (cf: P.L.2015, c.10, s.2)

39
40 3. This act shall take effect immediately.

41
42
43 STATEMENT

44
45 This bill would amend the “Overdose Prevention Act” (OPA),
46 P.L.2013, c.46 (C.24:6J-1 et al.) to clarify that pharmacists and
47 health care practitioners may dispense naloxone/Narcan and other

1 opioid antidotes pursuant to a standing order, and that a prescriber
2 may issue such a standing order, with immunity from civil,
3 criminal, and professional liability.

4 The OPA currently authorizes all “health care practitioners,”
5 including pharmacists, prescribers, and other practitioners, to
6 dispense opioid antidotes, with immunity, “through a standing
7 order.” However, it does not expressly authorize a prescriber to
8 issue a standing order to pharmacists and health care practitioners
9 for dispensation purposes. The bill would correct this oversight.

10 In so doing, the bill would redefine the term opioid antidote
11 “recipient” to include pharmacists and health care practitioners, and
12 it would amend the text of the OPA to include reference to all
13 opioid antidote recipients, where appropriate.

14 The bill would also make some other minor technical changes to
15 the OPA, in order to: (1) correct erroneous citations appearing in
16 the law; and (2) clarify that the immunity provisions of subsection
17 d. of section 4 of the OPA (C.24:6J-4) are applicable only to those
18 opioid recipients who are not already immunized under another
19 provision of that section.