SENATE, No. 1845

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:
Senator NICHOLAS P. SCUTARI
District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Requires county health departments to maintain reserve stock of opioid antidotes to dispense to certain entities on interim basis to ensure uninterrupted supply.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning overdose prevention and opioid antidote availability, and amending P.L.2013, c.46.

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

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

3. As used in this act:

"Commissioner" means the Commissioner of Human Services.

“County health department” means the agency that has been established and organized in each county, pursuant to section 6 of the “Local Health Services Act,” P.L.1975, c.329 (C.26:3A2-6), for the purpose of providing health services that are required to protect the health of citizens within its area of jurisdiction.

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

"Emergency medical response entity" means an organization, company, governmental entity, community-based program, or healthcare system that provides pre-hospital emergency medical services and assistance to opioid or heroin addicts or abusers in the event of an overdose. "Emergency medical response entity" includes, but is not limited to, a first aid, rescue and ambulance squad or other basic life support (BLS) ambulance provider; a mobile intensive care provider or other advanced life support (ALS) ambulance provider; an air medical service provider; or a fire-fighting company or organization, which squad, provider, company, or organization is qualified to send paid or volunteer emergency medical responders to the scene of an emergency.

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

“First responder” means a law enforcement officer, paid or volunteer firefighter, emergency medical responder, or any other individual who, in the course of that individual’s employment, is dispatched to the scene of an emergency for the purpose of providing medical care or other assistance.

“First response entity” means an organization, company, governmental entity, community-based agency or program, or other

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.

organized group that employs two or more first responders, whether on a paid or volunteer basis, for dispatch to emergency scenes.

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

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

"Opioid antidote" means any drug, regardless of dosage amount or method of administration, which has been approved by the United States Food and Drug Administration (FDA) for the treatment of an opioid overdose. "Opioid antidote includes, but is not limited to, naloxone hydrochloride, in any dosage amount, which is administered through nasal spray or any other FDA-approved means or methods.

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

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

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

"Professional entity" means an organization, company, governmental entity, community-based program, sterile syringe access program, or any other organized group that employs two or more professionals who engage, during the regular course of

business or volunteer activities, in direct interactions with opioid or heroin addicts or abusers or other persons susceptible to opioid overdose, or with other persons who are in a position to provide direct medical assistance to opioid or heroin addicts or abusers in the event of an overdose.

"Recipient" means a patient, professional, professional entity, emergency medical responder, emergency medical response entity, school, school district, or school nurse who is prescribed or dispensed an opioid antidote in accordance with section 4 of P.L.2013, c.46 (C.24:6J-4).

"School" means a public or private school that has adopted a policy that complies with the requirements of P.L.2013, c.46 (C.24:6J-1 et al.) authorizing the school to acquire and store an opioid antidote and the school nurse or another designated individual to administer the opioid antidote to an overdose victim in an emergency.

(cf: P.L.2018, c.106, s.7)

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

4. a. (1) A prescriber or other health care practitioner, as appropriate, may prescribe or dispense an opioid antidote:

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

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

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

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

(e) through a standing order, to any professional entity which is deemed by the health care practitioner to employ professionals who are capable of dispensing opioid antidotes to recipients, for

administration thereby, as part of the entity's regular course of business or volunteer activities;

(f) through a standing order, to a school, school district, or school nurse pursuant to the provisions of section 2 of P.L.2018, c.106 (C.18A:40-12.24); or

(g) through a standing order, to any county health department, for the purposes of storage and interim dispensation thereby, as provided by subsection i. of this section.

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

(b) For the purposes of this subsection, whenever the law expressly requires a certain type of emergency medical responder or emergency medical response entity to obtain a standing order for opioid antidotes pursuant to this section, such emergency medical responder, or the emergency medical responders employed or engaged by such emergency medical response entity, as the case may be, shall be presumed by the prescribing or dispensing health care practitioner to be capable of administering the opioid antidote, consistent with the express statutory requirement.

(c) For the purposes of this subsection, whenever the law expressly authorizes or requires a school or school district to obtain a standing order for opioid antidotes pursuant to this section, the school nurses employed or engaged by the school or school district shall be presumed by the prescribing or dispensing health care practitioner to be capable of administering the opioid antidote, consistent with the express statutory requirement.

(3) (a) Whenever a prescriber or other health care practitioner prescribes or dispenses an opioid antidote to a professional or professional entity pursuant to a standing order issued under paragraph (1) of this subsection, the standing order shall specify whether the professional or professional entity is authorized thereby to directly administer the opioid antidote to overdose victims; to dispense the opioid antidote to recipients, for their administration to third parties; or to both administer and dispense the opioid antidote. If a standing order does not include a specification in this regard, it shall be deemed to authorize the professional or professional entity only to administer the opioid antidote with immunity, as provided by subsection c. of this section, and it shall not be deemed to authorize the professional or professional entity to engage in the further dispensing of the antidote to recipients, unless such authority has been granted by law, as provided by subparagraph (b) of this paragraph.

(b) Notwithstanding the provisions of this paragraph to the contrary, if the law expressly authorizes or requires a certain type of professional, professional entity, emergency medical responder, emergency medical response entity, school, school district, or school nurse to administer or dispense opioid antidotes pursuant to a standing order issued hereunder, the standing order issued pursuant to this section shall be deemed to grant the authority specified by the law, even if such authority is not expressly indicated on the face of the standing order.

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

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

(2) Any professional or professional entity that dispenses an opioid antidote in accordance with paragraph (1) of this subsection, in good faith, and pursuant to a standing order issued under subsection a. of this section, shall not, as a result of any acts or omissions, be subject to any criminal or civil liability or any professional disciplinary action for dispensing an opioid antidote in accordance with P.L.2013, c.46 (C.24:6J-1 et seq.).

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

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

d. (1) Any person who is the recipient of an opioid antidote, which has been prescribed or dispensed for administration purposes pursuant to subsection a. or b. of this section, and who has received overdose prevention information pursuant to section 5 of P.L.2013, c.46 (C.24:6J-5), may administer the opioid antidote to another person in an emergency, without fee, if the antidote recipient

believes, in good faith, that the other person is experiencing an opioid overdose.

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

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

f. Any school, school district, school nurse, school employee, or any other officer or agent of a board of education, charter school, or nonpublic school who administers, or permits the administration of, an opioid antidote in good faith in accordance with the provisions of section 2 of P.L.2018, c.106 (C.18A:40-12.24), and pursuant to a standing order issued under subsection a. of this section, shall not, as a result of any acts or omissions, be subject to any criminal or civil liability, or any disciplinary action, for administering, or for permitting the administration of, the opioid antidote in accordance with P.L.2013, c.46 (C.24:6J-1 et seq.).

g. Notwithstanding the provisions of any law, rule, regulation, ordinance, or institutional or organizational directive to the contrary, any person or entity authorized to administer an opioid antidote pursuant to this section, may administer to an overdose victim, with full immunity:

(1) a single dose of any type of opioid antidote that has been approved by the United States Food and Drug Administration for use in the treatment of opioid overdoses; and

(2) up to three doses of an opioid antidote that is administered through an intranasal application, or through an intramuscular auto-injector, as may be necessary to revive the overdose victim. Prior consultation with, or approval by, a third-party physician or other medical personnel shall not be required before an authorized person or entity may administer up to three doses of an opioid antidote, as provided in this paragraph, to the same overdose victim.

h. No later than 45 days after the effective date of P.L.2017, c.381 the Commissioner of Health shall provide written notice to all emergency medical response entities affected by subsection g. of this section notifying them of the provisions of subsection g. of this section.

i. (1) Each county health department shall obtain, through a standing order, and shall maintain in an accessible storage location, a reserve stock of opioid antidotes sufficient to ensure an uninterrupted supply of opioid antidotes is available to first

responders, first response entities, schools, and hospital pharmacies operating in the county. The quantity of opioid antidotes that are to be kept in reserve stock by each county health department pursuant to this subsection shall be determined by the director of the county health department, in consultation with the county prosecutor, the county association of police chiefs, and the county association of fire chiefs, and with input from the hospitals, school districts, schools, emergency medical responders, and emergency medical response entities operating in the county.

(2) In the event that a first responder, first response entity, or school anticipates that it will exhaust its supply of opioid antidotes before it will be able to acquire an additional supply pursuant to a standing order issued under subsection a. of this section, the first responder, first response entity, or school may make a request to the county health department to provide the requester with an interim supply of opioid antidotes from the reserve stock that is maintained pursuant to this subsection. Upon receipt of a request, the county health department shall promptly deliver to the requester an interim supply of opioid antidotes in a quantity sufficient to ensure that the requester will have adequate stock to continue to administer or dispense opioid antidotes, as appropriate, during the interim period between the date the requester's supply of opioid antidotes will be exhausted and the date the requester will receive a new stock of opioid antidotes pursuant to the standing order.

(3) In the event that a hospital pharmacy anticipates that it will exhaust its available supply of opioid antidotes before it is able to acquire an additional supply, and will consequently be unable to meet the anticipated demand for opioid antidotes to be dispensed pursuant to subsection a. of this section, the hospital pharmacy may make a request to the county health department to provide the pharmacy with an interim supply of opioid antidotes from the reserve stock that is maintained pursuant to this subsection. Upon receipt of a request, the county health department shall promptly deliver to the hospital pharmacy an interim supply of opioid antidotes in a quantity sufficient to ensure that the hospital pharmacy will have adequate stock to continue to dispense opioid antidotes pursuant to subsection a. of this section during the interim period between the date the pharmacy's supply of opioid antidotes will be exhausted and the date the pharmacy will receive a new stock of opioid antidotes.

(4) Any first responder, first response entity, school, or hospital pharmacy that obtains an interim supply of opioid antidotes from the reserve stock maintained pursuant to this subsection shall reimburse the county health department for the department's actual costs to acquire and deliver the interim supply.

(5) County health departments in the State may enter into shared service agreements, in accordance with the "Uniform Shared Services and Consolidation Act," sections 1 through 35 of

P.L.2007, c.63 (C.40A:65-1 through C.40A:65-35), in order to facilitate the acquisition of opioid antidotes at discounted rates, minimize delivery costs, or otherwise facilitate the implementation of this subsection.

(6) The commissioner shall establish rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), identifying: (a) the manner and timeframe in which a first responder, first response entity, school, or hospital pharmacy may make a request to a county health department for interim opioid antidote supplies under this subsection; and (b) the manner and timeframe in which a first responder, first response entity, school, or hospital pharmacy shall provide reimbursement to the county health department for the department's actual costs to acquire and deliver the interim supplies.

(7) Any county health department or employee of a county health department that provides a first responder, first response entity, school, or hospital pharmacy with an interim supply of opioid antidotes from the reserve stock maintained pursuant to this subsection shall not, as a result of any acts or omissions, be subject to any criminal or civil liability, or any disciplinary action, for providing such interim supply in accordance with this subsection.

(cf: P.L.2018, c.106, s.8)

3. This act shall take effect immediately.

STATEMENT

This bill amends the "Overdose Prevention Act," P.L.2013, c.42 (C.24:6J-1 et seq.), to require each county health department to obtain, and to maintain in an accessible storage location, a reserve stock of opioid antidotes to be dispensed to first responders, schools that have adopted a policy to acquire and administer opioid antidotes, and hospital pharmacies, to ensure an uninterrupted supply of antidotes is available to those entities. The exact quantity of opioid antidotes to be maintained in the reserve stock will be determined by the director of each county health department in consultation with the county prosecutor, the county association of police chiefs, and the county association of fire chiefs, and with input from the hospitals, school districts, schools, emergency medical responders, and emergency medical response entities operating in that county.

The bill specifies that, whenever a first responder, first response entity, school, or hospital pharmacy anticipates it will exhaust its supply of opioid antidotes before it is able to acquire more, it may make a request to the county health department to provide an interim supply of opioid antidotes from the reserve stock. Upon receiving a request, the county health department will be required to

promptly deliver to the requester an interim supply sufficient to meet the requester's need for opioid antidotes for the interim period between the date the requester's supply will be exhausted and the date the requester will receive a new supply of opioid antidotes by regular means.

First responders, first response entities, schools, and hospital pharmacies that obtain an interim supply of opioid antidotes from the reserve stock will be required to reimburse the county health department for the department's actual costs in acquiring and delivering the interim supply. The bill expressly authorizes county health departments to enter into shared service agreements, in accordance with the "Uniform Shared Services and Consolidation Act," in order to facilitate the acquisition of opioid antidotes at discounted rates, minimize delivery costs, or otherwise facilitate the implementation of the bill's provisions.

The bill requires the Commissioner of Human Services to establish rules and regulations to identify the manner and timeframe to request a county health department provide interim supplies of opioid antidotes, and the manner and timeframe to provide reimbursements to the department for the costs of acquiring and delivering interim supplies.

Finally, the bill specifies that any county health department or employee of a county health department that provides an interim supply of opioid antidotes from its reserve stock will be immune from criminal or civil liability, or any disciplinary action, in association with the provision of the interim supply.