

Effective 5/10/2016

Chapter 55 Opiate Overdose Response Act

26-55-101 Title.

This chapter is known as the " Opiate Overdose Response Act."

Amended by Chapter 202, 2016 General Session

Amended by Chapter 207, 2016 General Session

Amended by Chapter 208, 2016 General Session

26-55-102 Definitions.

As used in this chapter:

- (1) "Controlled substance" means the same as that term is defined in Title 58, Chapter 37, Utah Controlled Substances Act.
- (2) "Dispense" means the same as that term is defined in Section 58-17b-102.
- (3) "Health care facility" means a hospital, a hospice inpatient residence, a nursing facility, a dialysis treatment facility, an assisted living residence, an entity that provides home- and community-based services, a hospice or home health care agency, or another facility that provides or contracts to provide health care services, which facility is licensed under Chapter 21, Health Care Facility Licensing and Inspection Act.
- (4) "Health care provider" means:
 - (a) a physician, as defined in Section 58-67-102;
 - (b) an advanced practice registered nurse, as defined in Section 58-31b-102;
 - (c) a physician assistant, as defined in Section 58-70a-102; or
 - (d) an individual licensed to engage in the practice of dentistry, as defined in Section 58-69-102.
- (5) "Increased risk" means risk exceeding the risk typically experienced by an individual who is not using, and is not likely to use, an opiate.
- (6) "Local health department" means:
 - (a) a local health department, as defined in Section 26A-1-102; or
 - (b) a multicounty local health department, as defined in Section 26A-1-102.
- (7) "Opiate" means the same as that term is defined in Section 58-37-2.
- (8) "Opiate antagonist" means naloxone hydrochloride or any similarly acting drug that is not a controlled substance and that is approved by the federal Food and Drug Administration for the diagnosis or treatment of an opiate-related drug overdose.
- (9) "Opiate-related drug overdose event" means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a person would reasonably believe to require medical assistance.
- (10) "Overdose outreach provider" means:
 - (a) a law enforcement agency;
 - (b) a fire department;
 - (c) an emergency medical service provider, as defined in Section 26-8a-102;
 - (d) emergency medical service personnel, as defined in Section 26-8a-102;
 - (e) an organization providing treatment or recovery services for drug or alcohol use;
 - (f) an organization providing support services for an individual, or a family of an individual, with a substance use disorder;

- (g) an organization providing substance use or mental health services under contract with a local substance abuse authority, as defined in Section 62A-15-102, or a local mental health authority, as defined in Section 62A-15-102;
 - (h) an organization providing services to the homeless;
 - (i) a local health department; or
 - (j) an individual.
- (11) "Patient counseling" means the same as that term is defined in Section 58-17b-102.
- (12) "Pharmacist" means the same as that term is defined in Section 58-17b-102.
- (13) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.
- (14) "Prescribe" means the same as that term is defined in Section 58-17b-102.

Amended by Chapter 127, 2016 General Session

Amended by Chapter 202, 2016 General Session

Amended by Chapter 207, 2016 General Session

Amended by Chapter 208, 2016 General Session

26-55-103 Voluntary participation.

This chapter does not create a duty or standard of care for a person to prescribe or administer an opiate antagonist.

Enacted by Chapter 130, 2014 General Session

26-55-104 Prescribing, dispensing, and administering an opiate antagonist -- Immunity from liability.

- (1)
 - (a)
 - (i) For purposes of Subsection (1)(a)(ii), "a person other than a health care facility or health care provider" includes the following, regardless of whether the person has received funds from the department through the Opiate Overdose Outreach Pilot Program created in Section 26-55-107:
 - (A) a person described in Subsections 26-55-107(1)(a)(i)(A) through (1)(a)(i)(F); or
 - (B) an organization defined by department rule made under Subsection 26-55-107(7)(e) that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event.
 - (ii) Except as provided in Subsection (1)(b), a person, including an overdose outreach provider, but not including a health care facility or health care provider, that acts in good faith to administer an opiate antagonist to an individual whom the person believes to be experiencing an opiate-related drug overdose event is not liable for any civil damages for acts or omissions made as a result of administering the opiate antagonist.
 - (b) A health care provider:
 - (i) does not have immunity from liability under Subsection (1)(a) when the health care provider is acting within the scope of the health care provider's responsibilities or duty of care; and
 - (ii) does have immunity from liability under Subsection (1)(a) if the health care provider is under no legal duty to respond and otherwise complies with Subsection (1)(a).
- (2) Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502, a health care provider who is licensed to prescribe an opiate antagonist may prescribe, including by a standing prescription drug order issued in accordance with Subsection 26-55-105(2), or dispense an opiate antagonist:

- (a)
 - (i) to an individual who is at increased risk of experiencing an opiate-related drug overdose event;
 - (ii) to a family member of, friend of, or other person, including a person described in Subsections 26-55-107(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or
 - (iii) to an overdose outreach provider for:
 - (A) furnishing to an individual who is at increased risk of experiencing an opiate-related drug overdose event, or to a family member of, friend of, or other individual who is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event, as provided in Section 26-55-106; or
 - (B) administering to an individual experiencing an opiate-related drug overdose event;
 - (b) without a prescriber-patient relationship; and
 - (c) without liability for any civil damages for acts or omissions made as a result of prescribing or dispensing the opiate antagonist in good faith.
- (3) A health care provider who dispenses an opiate antagonist to an individual or an overdose outreach provider under Subsection (2)(a) shall provide education to the individual or overdose provider that includes written instruction on how to:
- (a) recognize an opiate-related drug overdose event; and
 - (b) respond appropriately to an opiate-related drug overdose event, including how to:
 - (i) administer an opiate antagonist; and
 - (ii) ensure that an individual to whom an opiate antagonist has been administered receives, as soon as possible, additional medical care and a medical evaluation.

Amended by Chapter 202, 2016 General Session, (Coordination Clause)

Amended by Chapter 202, 2016 General Session

Amended by Chapter 207, 2016 General Session

Amended by Chapter 208, 2016 General Session

26-55-105 Standing prescription drug orders for an opiate antagonist.

- (1) Notwithstanding Title 58, Chapter 17b, Pharmacy Practice Act, a person licensed under Title 58, Chapter 17b, Pharmacy Practice Act, to dispense an opiate antagonist may dispense the opiate antagonist:
- (a) pursuant to a standing prescription drug order made in accordance with Subsection (2); and
 - (b) without any other prescription drug order from a person licensed to prescribe an opiate antagonist.
- (2) A physician who is licensed to prescribe an opiate antagonist, including a physician acting in the physician's capacity as an employee of the department, or a medical director of a local health department, as defined in Section 26A-1-102, may issue a standing prescription drug order authorizing the dispensing of the opiate antagonist under Subsection (1) in accordance with a protocol that:
- (a) limits dispensing of the opiate antagonist to:
 - (i) an individual who is at increased risk of experiencing an opiate-related drug overdose event;
 - (ii) a family member of, friend of, or other person, including a person described in Subsections 26-55-107(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or
 - (iii) an overdose outreach provider for:

- (A) furnishing to an individual who is at increased risk of experiencing an opiate-related drug overdose event, or to a family member of, friend of, or other individual who is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event, as provided in Section 26-55-106; or
- (B) administering to an individual experiencing an opiate-related drug overdose event;
- (b) requires the physician to specify the persons, by professional license number, authorized to dispense the opiate antagonist;
- (c) requires the physician to review at least annually the dispensing practices of those authorized by the physician to dispense the opiate antagonist;
- (d) requires those authorized by the physician to dispense the opiate antagonist to make and retain a record of each person to whom the opiate antagonist is dispensed, which shall include:
 - (i) the name of the person;
 - (ii) the drug dispensed; and
 - (iii) other relevant information; and
- (e) is approved by the Division of Occupational and Professional Licensing within the Department of Commerce by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 202, 2016 General Session, (Coordination Clause)

Enacted by Chapter 208, 2016 General Session

26-55-106 Overdose outreach providers.

Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502:

- (1) an overdose outreach provider may:
 - (a) obtain an opiate antagonist dispensed on prescription by:
 - (i) a health care provider, in accordance with Subsections 26-55-104(2) and (3); or
 - (ii) a pharmacist or pharmacy intern, as otherwise authorized by Title 58, Chapter 17b, Pharmacy Practice Act;
 - (b) store the opiate antagonist; and
 - (c) furnish the opiate antagonist:
 - (i)
 - (A) to an individual who is at increased risk of experiencing an opiate-related drug overdose event; or
 - (B) to a family member of, friend of, or other individual who is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; and
 - (ii) without liability for any civil damages for acts or omissions made as a result of furnishing the opiate antagonist in good faith; and
- (2) when furnishing an opiate antagonist under Subsection (1), an overdose outreach provider:
 - (a) shall also furnish to the recipient of the opiate antagonist:
 - (i) the written instruction under Subsection 26-55-104(3) received by the overdose outreach provider from the health care provider at the time the opiate antagonist was dispensed to the overdose outreach provider; or
 - (ii) if the opiate antagonist was dispensed to the overdose outreach provider by a pharmacist or pharmacy intern, any written patient counseling under Section 58-17b-613 received by the overdose outreach provider at the time of dispensing; and

- (b) may provide additional instruction on how to recognize and respond appropriately to an opiate-related drug overdose event.

Amended by Chapter 202, 2016 General Session, (Coordination Clause)
Enacted by Chapter 207, 2016 General Session

26-55-107 Opiate Overdose Outreach Pilot Program -- Grants -- Annual reporting by grantees -- Rulemaking -- Annual reporting by department.

(1) As used in this section:

- (a) "Persons that are in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event":
 - (i) means the following organizations:
 - (A) a law enforcement agency;
 - (B) the department or a local health department, as defined in Section 26A-1-102;
 - (C) an organization that provides drug or alcohol treatment services;
 - (D) an organization that provides services to the homeless;
 - (E) an organization that provides training on the proper administration of an opiate antagonist in response to an opiate-related drug overdose event;
 - (F) a school; or
 - (G) except as provided in Subsection (1)(a)(ii), any other organization, as defined by department rule made under Subsection (7)(e), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; and
 - (ii) does not mean:
 - (A) a person licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
 - (B) a health care facility; or
 - (C) an individual.
- (b) "School" means:
 - (i) a public school:
 - (A) for elementary or secondary education, including a charter school; or
 - (B) for other purposes;
 - (ii) a private school:
 - (A) for elementary or secondary education; or
 - (B) accredited for other purposes, including higher education or specialty training; or
 - (iii) an institution within the state system of higher education, as described in Section 53B-1-102.

(2) There is created within the department the "Opiate Overdose Outreach Pilot Program."

(3) The department may use funds appropriated for the program to:

- (a) provide grants under Subsection (4);
- (b) promote public awareness of the signs, symptoms, and risks of opioid misuse and overdose;
- (c) increase the availability of educational materials and other resources designed to assist individuals at increased risk of opioid overdose, their families, and others in a position to help prevent or respond to an overdose event;
- (d) increase public awareness of, access to, and use of opiate antagonist;
- (e) update the department's Utah Clinical Guidelines on Prescribing Opioids and promote its use by prescribers and dispensers of opioids;
- (f) develop a directory of substance misuse treatment programs and promote its dissemination to and use by opioid prescribers, dispensers, and others in a position to assist individuals at increased risk of opioid overdose;

- (g) coordinate a multi-agency coalition to address opioid misuse and overdose; and
 - (h) maintain department data collection efforts designed to guide the development of opioid overdose interventions and track their effectiveness.
- (4) No later than September 1, 2016, and with available funding, the department shall grant funds through the program to persons that are in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event.
- (5) Funds granted by the program:
- (a) may be used by a grantee to:
 - (i) pay for the purchase by the grantee of an opiate antagonist; or
 - (ii) pay for the grantee's cost of providing training on the proper administration of an opiate antagonist in response to an opiate-related drug overdose event; and
 - (b) may not be used:
 - (i) to pay for costs associated with the storage or dispensing of an opiate antagonist; or
 - (ii) for any other purposes.
- (6) Grantees shall report annually to the department on the use of granted funds in accordance with department rules made under Subsection (7)(d).
- (7) No later than July 1, 2016, the department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules specifying:
- (a) how to apply for a grant from the program;
 - (b) the criteria used by the department to determine whether a grant request is approved, including criteria providing that:
 - (i) grants are awarded to areas of the state, including rural areas, that would benefit most from the grant; and
 - (ii) no more than 15% of the total amount granted by the program is used to pay for grantees' costs of providing training on the proper administration of an opiate antagonist in response to an opiate-related drug overdose event;
 - (c) the criteria used by the department to determine the amount of a grant;
 - (d) the information a grantee shall report annually to the department under Subsection (6), including:
 - (i) the amount of opiate antagonist purchased and dispensed by the grantee during the reporting period;
 - (ii) the number of individuals to whom the opiate antagonist was dispensed by the grantee;
 - (iii) the number of lives known to have been saved during the reporting period as a result of opiate antagonist dispensed by the grantee; and
 - (iv) the manner in which the grantee shall record, preserve, and make available for audit by the department the information described in Subsections (7)(d)(i) through (7)(d)(iii); and
 - (e) as required by Subsection (1)(a)(i)(G), any other organization that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event.
- (8) The department shall report to the Legislature's Social Services Appropriations Subcommittee no later than September 1 of each year on the outcomes of the Opiate Overdose Outreach Pilot Program.

Enacted by Chapter 202, 2016 General Session

Amended by Chapter 207, 2016 General Session, (Coordination Clause)