WEST VIRGINIA LEGISLATURE
EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2015

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 335

(Senators Cole (Mr. President), and Kessler,
By Request of the Executive)

[Passed February 12, 2015; in effect ninety days from passage.]
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-46-1, §16-46-2, §16-46-3, §16-46-4, §16-46-5 and §16-46-6; and to amend and reenact §30-1-7a of said code, all relating generally to accessing and administering opioid antagonists in overdose situations; defining terms; establishing objectives and purpose; allowing licensed health care providers to prescribe opioid antagonist to initial responders and certain individuals; allowing initial responders to possess and administer opioid antagonists; providing for limited liability for initial responders; providing for limited liability for licensed health care providers who prescribe opioid antagonist in accordance with this article; providing for limited liability for anyone who possesses and administers an opioid antagonist; establishing responsibility of licensed health care providers to provide educational materials on overdose prevention and administration of opioid antagonist; providing for data collection and reporting; providing for training requirements; and providing for rule-making authority.
Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-46-1, §16-46-2, §16-46-3, §16-46-4, §16-46-5 and §16-46-6; and that §30-1-7a of said code be amended and reenacted, all to read as follows:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 46. ACCESS TO OPIOID ANTAGONISTS ACT.

§16-46-1. Purpose and findings.

(a) The purpose of this article is to prevent deaths in circumstances involving individuals who have overdosed on opiates.

(b) The Legislature finds that permitting licensed health care providers to prescribe opioid antagonists to initial responders as well as individuals at risk of experiencing an overdose, their relatives, friends or caregivers may prevent accidental deaths as a result of opiate-related overdoses.


As used in this article:

(1) "Initial responder" means emergency medical service personnel, as defined in subdivision (g), section three, article four-c of this chapter, including, but not limited to, a member of the West Virginia State Police, a sheriff, a deputy sheriff, a municipal police officer, a volunteer or paid firefighter and any other person acting under color of law who responds to emergencies.

(2) "Licensed health care provider" means a person, partnership, corporation, professional limited liability
company, health care facility or institution licensed by or
certified in this state to provide health care or professional
health care services. This includes, but is not limited to,
medical physicians, allopathic and osteopathic physicians,
pharmacists, physician assistants or osteopathic physician
assistants who hold a certificate to prescribe drugs, advanced
nurse practitioners who hold a certificate to prescribe drugs,
hospitals, emergency service agencies and others as allowed
by law to prescribed drugs.

(3) "Opiates" or "opioid drugs" means drugs that are
members of the natural and synthetic opium family,
including, but not limited to, heroin, morphine, codeine,
methadone, oxycodone, hydrocodone, fentanyl and
hydromorphone.

(4) "Opioid antagonist" means a federal Food and Drug
Administration-approved drug for the treatment of an opiate-
related overdose, such as naloxone hydrochloride or other
substance, that, when administered, negates or neutralizes, in
whole or in part, the pharmalogical effects of an opioid in the
body.

(5) "Opioid overdose prevention and treatment training
program" or "program" means any program operated or
approved by the Office of Emergency Services as set forth in
rules promulgated pursuant to this article.

(6) "Overdose" means an acute condition, including, but
not limited to, life-threatening physical illness, coma, mania,
hysteria or death, which is the result of the consumption or
use of opioid drugs.

(7) "Standing order" means a written document
containing rules, policies, procedures, regulations and orders
for the conduct of patient care, including the condition being
treated, the action to be taken and the dosage and route of
administration for the drug prescribed.

§16-46-3. Licensed health care providers may prescribe opioid
antagonists to initial responders and certain individuals;
required educational materials; limited liability.

(a) All licensed health care providers in the course of
their professional practice may offer to initial responders a
prescription for opioid antagonists, including a standing
order, to be used during the course of their professional duties
as initial responders.

(b) All licensed health care providers in the course of
their professional practice may offer to a person considered
by the licensed health care provider to be at risk of
experiencing an opiate-related overdose, or to a relative,
friend, caregiver or person in a position to assist a person at
risk of experiencing an opiate-related overdose, a prescription
for an opioid antagonist.

(c) All licensed health care providers who prescribe an
opioid antagonist under this section shall provide educational
materials to any person or entity receiving such a prescription
on opiate-related overdose prevention and treatment
programs, as well as materials on administering the
prescribed opioid antagonist.

(d) Any person who possesses an opioid antagonist and
administers it to a person whom they believe to be suffering
from an opioid-related overdose and who is acting in good
faith is not, as a result of his or her actions or omissions,
subject to criminal prosecution arising from the possession of
an opioid antagonist or subject to any civil liability with
respect to the administration of or failure to administer the
opioid antagonist unless the act or failure to act was the result
of gross negligence or willful misconduct.
(e) Any person who administers an opioid antagonist to a person whom they believe to be suffering from an opioid-related overdose is required to seek additional medical treatment at a medical facility for that person immediately following the administration of the opioid antagonist to avoid further complications as a result of suspected opioid-related overdose.

§16-46-4. Possession and administration of an opioid antagonist by an initial responder; limited liability.

(a) An initial responder who is not otherwise authorized to administer opioid antagonists may possess opioid antagonists in the course of his or her professional duties as an initial responder and administer an opioid antagonist in an emergency situation if:

1. The initial responder has successfully completed the training required by subsection (b), section six of this article; and

2. The administration thereof is done after consultation with medical command, as defined in subdivision (k), section three, article four-c of this chapter: Provided, That an initial responder may administer an opioid antagonist without consulting medical command if he or she is unable to so consult due to an inability to contact medical command because of circumstances outside the control of the initial responder or if there is insufficient time for the consultation based upon the emergency conditions presented.

(b) An initial responder who meets the requirements of subsection (a) of this section, acting in good faith, is not, as a result of his or her actions or omissions, subject to civil liability or criminal prosecution arising from or relating to the administration of the opioid antagonist unless the actions or
omissions were the result of the initial responder’s gross negligence or willful misconduct.

§16-46-5. Licensed health care providers’ limited liability related to opioid antagonist prescriptions.

(a) A licensed health care provider who is permitted by law to prescribe drugs, including opioid antagonists, may, if acting in good faith, prescribe and subsequently dispense or distribute an opioid antagonist without being subject to civil liability or criminal prosecution unless prescribing the opioid antagonist was the result of the licensed health care provider’s gross negligence or willful misconduct.

(b) For purposes of this chapter and chapter sixty-a, any prescription written, as described in section three of this article, shall be presumed as being issued for a legitimate medical purpose in the usual course of professional practice unless the presumption is rebutted by a preponderance of the evidence.

§16-46-6. Data collection and reporting requirements; training.

(a) Beginning March 1, 2016, and annually thereafter the following reports shall be compiled:

(1) The Office of Emergency Medical Services shall collect data regarding each administration of an opioid antagonist by an initial responder. The Office of Emergency Medical Services shall report this information to the Legislative Oversight Commission on Health and Human Resources Accountability and the West Virginia Bureau for Behavioral Health and Health Facilities. The data collected and reported shall include:

(A) The number of training programs operating in an Office of Emergency Medical Services-designated training center;
(B) The number of individuals who received training to administer an opioid antagonist;

(C) The number of individuals who received an opioid antagonist administered by an initial responder;

(D) The number of individuals who received an opioid antagonist administered by an initial responder who were revived;

(E) The number of individuals who received an opioid antagonist administered by an initial responder who were not revived; and

(F) The cause of death of individuals who received an opioid antagonist administered by an initial responder and were not revived.

(2) Each licensed health care provider shall submit data to the West Virginia Board of Pharmacy by February 1 of each calendar year, excluding any personally identifiable information, regarding the number of opioid antagonist prescriptions written in accordance with this article in the preceding calendar year. The licensed health care provider shall indicate whether the prescription was written to an individual in the following categories: An initial responder; an individual at risk of opiate-related overdose; a relative of a person at risk of experiencing an opiate-related overdose; a friend of a person at risk of experiencing an opiate-related overdose; or a caregiver or person in a position to assist a person at risk of experiencing an opiate-related overdose.

(3) The West Virginia Board of Pharmacy shall compile all data described in subdivision (2) of this section and any additional data maintained by the Board of Pharmacy related to prescriptions of opioid antagonists. By March 1, the Board
of Pharmacy shall provide a report of this information to the Legislative Oversight Commission on Health and Human Resources Accountability and the West Virginia Bureau for Behavioral Health and Health Facilities.

(b) To implement the provisions of this section, including establishing the standards for certification and approval of opioid overdose prevention and treatment training programs and protocols regarding a refusal to transport, the Office of Emergency Medical Services may promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code and shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.

§30-1-7a. Continuing education.

(a) Each board referred to in this chapter shall establish continuing education requirements as a prerequisite to license renewal. Each board shall develop continuing education criteria appropriate to its discipline, which shall include, but not be limited to, course content, course approval, hours required and reporting periods.

(b) Notwithstanding any other provision of this code or the provision of any rule to the contrary, each person issued a license to practice medicine and surgery or a license to practice podiatry or licensed as a physician assistant by the West Virginia Board of Medicine, each person issued a license to practice dentistry by the West Virginia Board of
Dental Examiners, each person issued a license to practice optometry by the West Virginia Board of Optometry, each person licensed as a pharmacist by the West Virginia Board of Pharmacy, each person licensed to practice registered professional nursing or licensed as an advanced nurse practitioner by the West Virginia Board of Examiners for Registered Professional Nurses, each person licensed as a licensed practical nurse by the West Virginia State Board of Examiners for Licensed Practical Nurses and each person licensed to practice medicine and surgery as an osteopathic physician and surgeon or licensed or certified as an osteopathic physician assistant by the West Virginia Board of Osteopathy shall complete drug diversion training, best-practice prescribing of controlled substances training and training on prescribing and administration of an opioid antagonist, as the trainings are established by his or her respective licensing board, if that person prescribes, administers or dispenses a controlled substance, as that term is defined in section one hundred one, article one, chapter sixty-a of this code.

(1) Notwithstanding any other provision of this code or the provision of any rule to the contrary, the West Virginia Board of Medicine, the West Virginia Board of Dental Examiners, the West Virginia Board of Optometry, the West Virginia Board of Pharmacy, the West Virginia Board of Examiners for Registered Professional Nurses, the West Virginia State Board of Examiners for Licensed Practical Nurses and the West Virginia Board of Osteopathy shall establish continuing education requirements and criteria appropriate to their respective discipline on the subject of drug diversion training, best-practice prescribing of controlled substances training and prescribing and administration of an opioid antagonist training for each person issued a license or certificate by their respective board who prescribes, administers or dispenses a controlled substance.
substance, as that term is defined in section one hundred one, article one, chapter sixty-a of this code, and shall develop a certification form pursuant to subdivision (b)(2) of this section.

(2) Each person who receives his or her initial license or certificate from any of the boards set forth in subsection (b) of this section shall complete the continuing education requirements set forth in subsection (b) of this section within one year of receiving his or her initial license from that board and each person licensed or certified by any of the boards set forth in subsection (b) of this section who has held his or her license or certificate for longer than one year shall complete the continuing education requirements set forth in subsection (b) of this section as a prerequisite to each license renewal: Provided, That a person subject to subsection (b) of this section may waive the continuing education requirements for license renewal set forth in subsection (b) of this section if he or she completes and submits to his or her licensing board a certification form developed by his or her licensing board attesting that he or she has not prescribed, administered or dispensed a controlled substance, as that term is defined in section one hundred one, article one, chapter sixty-a of this code, during the entire applicable reporting period.

(c) Notwithstanding any other provision of this code or the provision of any rule to the contrary, each person licensed to practice registered professional nursing or licensed as an advanced nurse practitioner by the West Virginia Board of Examiners for Registered Professional Nurses, each person licensed as a licensed practical nurse by the West Virginia State Board of Examiners for Licensed Practical Nurses, each person issued a license to practice midwifery as a nurse-midwife by the West Virginia Board of Examiners for Registered Professional Nurses, each person issued a license to practice chiropractic by the West Virginia Board of
Chiropractic, each person licensed to practice psychology by the Board of Examiners of Psychologists, each person licensed to practice social work by the West Virginia Board of Social Work and each person licensed to practice professional counseling by the West Virginia Board of Examiners in Counseling shall complete two hours of continuing education for each reporting period on mental health conditions common to veterans and family members of veterans, as the continuing education is established or approved by his or her respective licensing board. The two hours shall be part of the total hours of continuing education required by each board and not two additional hours.

(1) Notwithstanding any other provision of this code or the provision of any rule to the contrary, on or before July 1, 2015, the boards referred to in this subsection shall establish continuing education requirements and criteria and approve continuing education coursework appropriate to their respective discipline on the subject of mental health conditions common to veterans and family members of veterans, in cooperation with the Secretary of the Department of Veterans’ Assistance. The continuing education shall include training on inquiring about whether the patients are veterans or family members of veterans, and screening for conditions such as post-traumatic stress disorder, risk of suicide, depression and grief and prevention of suicide.

(2) On or after July 1, 2017, each person licensed by any of the boards set forth in this subsection shall complete the continuing education described herein as a prerequisite to his or her next license renewal.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved ............... this the ....

Day of ....... , 2015.

Governor