

Senate Bill No. 335

(By Senators Cole (Mr. President) and Kessler,

By Request of the Executive)

[Introduced January 27, 2015; referred to the Committee on Health and Human Resources.]

9 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
10 designated §16-46-1, §16-46-2, §16-46-3, §16-46-4, §16-46-5, §16-46-6 and §16-46-7, all
11 relating generally to accessing and administering opioid antagonists in overdose situations;
12 establishing short title; defining terms; establishing objectives and purpose; allowing licensed
13 health care providers to prescribe opioid antagonist to initial responders and certain
14 individuals; allowing initial responders to possess and administer opioid antagonists;
15 providing for limited liability for initial responders who possess and administer opioid
16 antagonist; providing for limited liability for licensed health care providers who prescribe
17 opioid antagonist in accordance with this article; establishing responsibility of licensed health
18 care providers to provide educational materials on overdose prevention and administration
19 of opioid antagonist; and providing for data collection and reporting.

20 *Be it enacted by the Legislature of West Virginia:*

21 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new

1 article, designated §16-46-1, §16-46-2, §16-46-3, §16-46-4, §16-46-5, §16-46-6 and §16-46-7, all
2 to read as follows:

3 **ARTICLE 46. ACCESS TO OPIOID ANTAGONISTS ACT.**

4 **§16-46-1. Short title.**

5 This article is known as and may be cited as the "Access to Opioid Antagonists Act".

6 **§16-46-2. Definitions.**

7 As used in this article:

8 (1) "Initial responder" means emergency medical service personnel, as defined in subdivision
9 (g), section three, article four-c of this chapter, a member of the West Virginia State Police, a sheriff,
10 a deputy sheriff, a municipal police officer, a volunteer or paid firefighter and any other person
11 acting under color of law who responds to emergencies.

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

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

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

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

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

11 **§16-46-3. Purpose and objectives.**

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

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

17 **§16-46-4. Licensed health care providers may prescribe opioid antagonists to initial**
18 **responders and certain individuals; required educational materials.**

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

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

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

9 **§16-46-5. Possession and administration of an opioid antagonist by an initial responder;**
10 **limited liability.**

11 (a) An initial responder who is not otherwise authorized to administer opioid antagonists may
12 possess opioid antagonists in the course of his or her professional duties as an initial responder and
13 administer an opioid antagonist in an emergency situation if the administration thereof is done after
14 consultation with medical command, as defined in subdivision (k), section three, article four-c of this
15 chapter: *Provided*, That an initial responder may administer an opioid antagonist without consulting
16 medical command if he or she is unable to so consult due to an inability to contact medical command
17 because of circumstances outside the control of the initial responder or if there is insufficient time
18 for the consultation based upon the emergency conditions presented.

19 (b) An initial responder who meets the requirements of subsection (a) of this section, acting
20 in good faith, is not, as a result of his or her actions or omissions, subject to civil liability or criminal
21 prosecution arising from or relating to the administration of the opioid antagonist unless the actions

1 or omissions were the result of the initial responder's gross negligence or willful misconduct.

2 **§16-46-6. Licensed health care providers' limited liability related to opioid antagonist**
3 **prescriptions.**

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

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

13 **§16-46-7. Data collection and reporting requirements.**

14 Annually, beginning in the year 2016, the following reports shall be compiled:

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

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

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

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

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

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

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

NOTE: The purpose of this bill is to allow initial responders to possess and administer
opioid antagonists in suspected opiate-related overdoses; to ensure opioid antagonists are made

available to individuals at risk of overdose, as well as to relatives, friends and caregivers of such individuals; and to establish responsibilities for licensed health care providers that prescribe opioid antagonists.

This is a new article; therefore, underscoring and strike-throughs have been omitted.