WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

Committee Substitute

for

Senate Bill 272

BY SENATORS CARMICHAEL (MR. PRESIDENT) AND

PREZIOSO

(BY REQUEST OF THE EXECUTIVE)

[Originating in the Committee on Finance; Reported

on February 7, 2018]

A BILL to amend and reenact §16-5T-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §16-5T-6; to amend and reenact §16-46-4 of said code; and to amend said code by adding thereto a new section, designated §16-46-7, all relating generally to drug control; requiring hospital emergency rooms and departments, as well as certain other law-enforcement and medical care providers, to report suspected or confirmed drug overdoses and other drug-related instances to the Office of Drug Control Policy; allowing the Office of Drug Control Policy to establish a pilot program for community response to persons who have experienced a recent overdose; requiring local and state governmental agencies to require first responders, regardless of frequency of drug overdoses in their communities, to carry Naloxone and be trained in its use subject to funding and availability; and providing for a statewide standing order for Naloxone by the state health officer.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5T. OFFICE OF DRUG CONTROL POLICY.

§16-5T-4. Entities required to report; required information.

(a) To fulfill the purposes of this article, the following information shall be reported to the Office of Drug Control Policy:

(1) An emergency medical or law-enforcement response to a suspected, ~~or~~ reported, or confirmed overdose, or a response in which an overdose is identified by the responders;

(2) Medical treatment for an overdose;

(3) The dispensation or provision of an opioid antagonist; and

(4) Death attributed to overdose or “drug poisoning”.

(b) The following entities shall be required to report information contained in §16-5T-4(a) of this code:

(1) Pharmacies operating in the state;

(2) Health care providers;

(3) Medical examiners;

(4) Law-enforcement agencies, including prosecuting attorneys, state, county, and local police departments; ~~and~~

(5) Emergency response providers; and

(6) Hospital emergency rooms and departments.

§16-5T-6. Community Overdose Response Demonstration Pilot Project.

(a) *Authorizing participation*. — Effective July 1, 2018, the Director of the Office of Drug Control Policy shall establish a Community Overdose Response Demonstration Pilot Project, to be continued for a period of four years, to develop model government programs to promote public health and general welfare through a comprehensive community-based response to drug overdoses in communities across West Virginia.

(b) *Purpose.* — The purpose of the demonstration pilot project is the development of community programs that will focus and use existing resources of government agencies to create outreach programs to educate concerned family and community members, including first responders, to recognize an opioid overdose, and to immediately respond with life-saving measures and quick response teams comprised of law enforcement, emergency medical personnel, and a trained opiate case manager to conduct an in-home visit within one week of an overdose.

(c) *Objective.* — The objective of the demonstration pilot project is to improve public health by addressing drug overdoses through a comprehensive community development plan. The plan should serve as a model to improve public health and education through a comprehensive community-based response to drug overdoses across the state.

(d) *Eligibility*. — Communities that experience a high frequency of drug overdoses, compared with national averages as determined by the Office of Drug Control Policy, are eligible for participation in the demonstration pilot project.

(e) *Administration*. — The demonstration pilot project shall be developed and administered by the Office of Drug Control Policy to encourage state and local agencies and community groups to work together and coordinate government and community responses to drug overdoses, and identify new and existing funds, personnel, and other existing resources available for the demonstration pilot project. Demonstration projects may include:

(1) Outreach programs to educate concerned family and community members, including first responders, to recognize an opioid overdose and to immediately respond with life-saving measures. This outreach may include basic information, training in the proper and safe administration of Naloxone to reverse drug overdoses, and the distribution of Naloxone kits; and

(2) Quick response teams comprised of law enforcement, emergency medical personnel, and a case manager trained in substance use disorder to conduct an in-home visit within one week of an overdose. The quick response teams would work cooperatively to triage and assess overdose survivors and provide linkage to treatment and services for rehabilitation with the goal of reducing repeated overdoses.

(f) *Resources*. — The demonstration project may receive funding and other committed resources from federal, state, or local government and community groups.

(g) *Plan.* — Any community desiring to participate in the demonstration project shall submit a plan to the director that provides for the following elements:

(1) Community participation;

(2) Development of a community action plan with measurable, achievable, realistic, time-phased objectives;

(3) Implementation of the community action plan; and

(4) Evaluation of results.

(h) *Selection*. — By majority vote, the Governor's Advisory Council on Substance Use Disorder Policy created pursuant to Executive Order 10-17 may select one or more communities from those that submit plans for participation in the demonstration pilot project.

(i) *Reporting requirements*. — Commencing December 1, 2018, and each year thereafter, each participating community shall give a progress report to the director and commencing January 1, 2019, and each year thereafter, the director shall give a summary report of all the participating communities to the Legislative Oversight Commission on Health and Human Resources Accountability as established in §16-29E-1 *et seq*. of this code, on progress made by the pilot demonstration project, including suggested legislation, necessary changes to the demonstration pilot project, and suggested expansion of the demonstration project.

(j) This section is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the state, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(k) *Termination of the demonstration pilot project*. — The demonstration project terminates on July 1, 2022.

ARTICLE 46. ACCESS TO OPIOID ANTAGONISTS.

§16-46-4. Possession and administration of an opioid antagonist by ~~an~~ initial responder<u>s</u>; 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.~~ Local and state governmental agencies that employ initial responders must provide opioid antagonist rescue kits to their initial responders, require initial responders to successfully complete the training required by §16-46-6(b) of this code, and require the initial responders to carry the opioid antagonist rescue kits in accordance with agency procedures so as to optimize the initial responders' capacity to timely assist in the prevention of opioid overdoses: *Provided*, That a local or state governmental agency has sufficient funding or supplies of opioid antagonist rescue kits.

(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 are the result of the initial responder's gross negligence or willful misconduct~~ In the absence of gross negligence or willful misconduct, nothing in this section shall be construed to impose civil or criminal liability on a local or state governmental agency or an initial responder acting in good faith in the administration or provision of an opioid antagonist in cases where an individual appears to be experiencing an opioid overdose.

(c) As used in this section, an "opioid antagonist rescue kit" means a kit containing:

(1) Two doses of an opioid antagonist in either a generic form or in a form approved by the United States Federal Food and Drug Administration; and

(2) Overdose education materials that conform to Office of Emergency Medical Services or federal Substance Abuse and Mental Health Services Administration guidelines for opioid overdose education that explain the signs and causes of an opioid overdose and instruct when and how to administer in accordance with medical best practices:

(A) Life-saving rescue techniques; and

(B) An opioid antagonist.

§16-46-7. Statewide standing orders for opioid antagonist.

(a) The state health officer may prescribe on a statewide basis an opioid antagonist by one or more standing orders to eligible recipients.

(b) A standing order must specify, at a minimum:

(1) The opioid antagonist formulations and means of administration that are approved for dispensing;

(2) The eligible recipients to whom the opioid antagonist may be dispensed;

(3) Any training that is required for an eligible recipient to whom the opioid antagonist is dispensed;

(4) The circumstances under which an eligible recipient may distribute or administer the opioid antagonist; and

(5) The timeline for renewing and updating the standing order.

NOTE: The purpose of this bill is to require hospital emergency rooms and departments, as well as certain other law enforcement and medical care providers, to report suspected or confirmed drug overdoses to the Office of Drug Control Policy. The bill permits counties experiencing drug overdoses higher than the national average to establish certain community-based recognition and response efforts. The bill permits those counties to seek federal and private funding to implement these programs. The bill requires all first responders, regardless of frequency of drug overdoses in their communities, to carry Naloxone and be trained in its use.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.