

1 COMMITTEE SUBSTITUTE

2 FOR

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4 FOR

5 **Senate Bill No. 336**

6 (By Senators Stollings, Laird, Boley, Cole, M. Hall,
7 Kirkendoll, Miller, Palumbo, Plymale, Prezioso,
8 Tucker, Walters, Yost, Jenkins and Cookman)

9 _____
10 [Originating in the Committee on the Judiciary;
11 reported February 4, 2014.]

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13
14 A BILL to amend the Code of West Virginia, 1931, as amended, by
15 adding thereto two new sections, designated §16-4C-24 and §16-
16 4C-25; and to amend and reenact §30-1-7a of said code, all
17 relating generally to administration of an opioid antagonist;
18 allowing State Police, police, sheriffs and fire and emergency
19 service personnel to possess Naloxone or other approved opioid
20 antagonist to administer in opioid drug overdoses; defining
21 terms; providing for training; establishing training
22 requirements for first responders who may administer opioid
23 antagonists; establishing criteria under which a first
24 responder may administer an opioid antagonist; granting
25 immunity to health care providers who prescribe, dispense or
26 distribute Naloxone or other approved opioid antagonist
27 related to a training program; granting immunity to initial
28 responders who administer or fail to administer an opioid

1 antagonist; providing for data gathering and reporting;
2 allowing a prescription for an opioid antagonist in certain
3 circumstances; establishing responsibility of licensed
4 prescribers; providing for patient family and caregiver
5 education; requiring continuing education of licensed
6 prescribers for administration of an opioid antagonist; and
7 authorizing emergency and legislative rulemaking.

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

9 That the Code of West Virginia, 1931, as amended, be amended
10 by adding thereto two new sections, designated §16-4C-24 and §16-
11 4C-25; and that §30-1-7a of said code be amended and reenacted, all
12 to read as follows:

13 **CHAPTER 16. PUBLIC HEALTH.**

14 **ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.**

15 **§16-4C-24. Administration of an opioid antidote in an emergency**
16 **situation.**

17 (a) For purposes of this section:

18 (1) "Initial responder" means an emergency medical service
19 personnel covered under this article and a member of the State
20 Police, a sheriff, a deputy sheriff, a municipal police officer, a
21 volunteer or paid firefighter and any other similar person who
22 responds to emergencies.

23 (2) "Licensed health care provider" means a person,
24 partnership, corporation, professional limited liability company,
25 health care facility or institution licensed by or certified in
26 this state to provide health care or professional health care
27 services, including, but not limited to, a physician, osteopathic
28 physician, hospital or emergency medical service agency.

1 (3) "Opioid antagonist" means naloxone hydrochloride or other
2 substance that is approved by the federal Food and Drug
3 Administration for the treatment of a drug overdose by intranasal
4 administration.

5 (4) "Opioid overdose prevention and treatment training
6 program" or "program" means any program operated or approved by the
7 Office of Emergency Medical Services as set forth in rules
8 promulgated pursuant to subsection (f) of this section.

9 (b) A licensed health care provider who is permitted by law to
10 prescribe an opioid antagonist may, if acting with reasonable care,
11 prescribe and subsequently dispense or distribute an opioid
12 antagonist in conjunction with an opioid overdose prevention and
13 treatment training program without being subject to civil liability
14 or criminal prosecution unless the act was the result of the
15 licensed health care provider's gross negligence or willful
16 misconduct. This immunity applies only to the licensed health care
17 provider even when the opioid antagonist is administered by and to
18 someone other than the person to whom it is prescribed.

19 (c) An initial responder who is not otherwise authorized to
20 administer an opioid antagonist may administer an opioid antagonist
21 in an emergency situation if:

22 (1) The initial responder has successfully completed the
23 training required by subdivision (4), subsection (a) of this
24 section; and

25 (2) The administration of the opioid antagonist is done after
26 consultation with medical command personnel: *Provided*, That an
27 initial responder who otherwise meets the qualifications of this
28 subsection may administer an opioid antagonist without consulting

1 with medical command if he or she is unable to so consult due to an
2 inability to contact medical command because of circumstances
3 outside the control of the initial responder or if there is
4 insufficient time for the consultation based upon the emergency
5 conditions presented.

6 (d) An initial responder who meets the requirements of
7 subsection (c) of this section, acting in good faith, is not, as a
8 result of his or her actions or omissions, liable for any violation
9 of any professional licensing statute, subject to criminal
10 prosecution arising from or relating to the unauthorized practice
11 of medicine or the possession of an opioid antagonist or subject to
12 any civil liability with respect to the administration of or
13 failure to administer the opioid antagonist unless the act or
14 failure to act was the result of the initial responder's gross
15 negligence or willful misconduct.

16 (e) Data regarding each opioid overdose prevention and
17 treatment program that the Office of Emergency Medical Services
18 operates or recognizes as an approved program shall be collected
19 and reported by January 1, 2017, to the Legislative Oversight
20 Commission on Health and Human Resources Accountability. The data
21 collected and reported shall include:

22 (1) The number of training programs operating in an Office of
23 Emergency Medical Services-designated training center;

24 (2) The number of individuals who have received training to
25 administer an opioid antagonist;

26 (3) The number of individuals who received the opioid
27 antagonist who were revived;

28 (4) The number of individuals who received the opioid

1 antagonist who were not revived; and

2 (5) The number of adverse events associated with an opioid
3 overdose prevention and treatment program, including a description
4 of the adverse events.

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

14 **§16-4C-25. Offer of emergency aid medication to patients**
15 **prescribed opiates.**

16 (a) All prescribers in the course of their professional
17 practice may offer to patients to whom they also prescribe opiates
18 for chronic pain or patients engaged in methadone or suboxone
19 treatment programs a prescription for an opioid antagonist such as
20 Naloxone.

21 (b) All prescribers who may offer an opioid antagonist to
22 their patients under this section shall make information and
23 education available to patients, their family members or caregivers
24 on the beneficial and proper use of the opioid antagonist.

25 (c) When a prescription is written to a patient for an opioid
26 antagonist, or if the patient enters a methadone or suboxone
27 addiction treatment program, information and education is required
28 to be given to the patient and his or her family or caregiver as a

1 condition of receiving the prescription or entering an addiction
2 treatment program.

3 **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

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

6 **§30-1-7a. Continuing education.**

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

13 (b) Notwithstanding any other provision of this code or the
14 provision of any rule to the contrary, each person issued a license
15 to practice medicine and surgery or a license to practice podiatry
16 or licensed as a physician assistant by the West Virginia Board of
17 Medicine, each person issued a license to practice dentistry by the
18 West Virginia Board of Dental Examiners, each person issued a
19 license to practice optometry by the West Virginia Board of
20 Optometry, each person licensed as a pharmacist by the West
21 Virginia Board of Pharmacy, each person licensed to practice
22 registered professional nursing or licensed as an advanced nurse
23 practitioner by the West Virginia Board of Examiners for Registered
24 Professional Nurses, each person licensed as a licensed practical
25 nurse by the West Virginia State Board of Examiners for Licensed
26 Practical Nurses and each person licensed to practice medicine and
27 surgery as an osteopathic physician and surgeon or licensed or
28 certified as an osteopathic physician assistant by the West

1 Virginia Board of Osteopathy shall complete drug diversion
2 training, ~~and~~ best-practice prescribing of controlled substances
3 training and training on prescribing and administration of an
4 opioid antagonist, as the trainings are established by his or her
5 respective licensing board, if that person prescribes, administers
6 or dispenses a controlled substance, as that term is defined in
7 section one hundred one, article one, chapter sixty-a of this code.

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

25 (2) Each person who receives his or her initial license or
26 certificate from any of the boards set forth in subsection (b) of
27 this section shall complete the continuing education requirements
28 set forth in subsection (b) of this section within one year of

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