

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

Introduced

### House Bill 2009

FISCAL  
NOTE

2015 Carryover

(BY DELEGATES FAST, DUKE, SUMMERS, ROHRBACH,  
BORDER, STORCH, ARVON, ROMINE AND COWLES )

[Introduced January 13, 2016; referred to the  
Committee on Health and Human Resources then the  
Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto two new  
 2 sections, designated §16-4C-24 and §16-4C-25; and to amend and reenact §30-1-7a of  
 3 said code, all relating generally to administration of an opioid antagonist; allowing State  
 4 Police, police, sheriffs and fire and emergency service personnel to possess naloxone or  
 5 other approved opioid antagonist to administer in opioid drug overdoses; defining terms;  
 6 providing for training; establishing training requirements for first responders who may  
 7 administer opioid antagonists; establishing criteria under which a first responder may  
 8 administer an opioid antagonist; granting immunity to health care providers who prescribe,  
 9 dispense or distribute naloxone or other approved opioid antagonist related to a training  
 10 program; granting immunity to initial responders who administer or fail to administer an  
 11 opioid antagonist; providing for data gathering and reporting; allowing a prescription for an  
 12 opioid antagonist in certain circumstances; establishing responsibility of licensed  
 13 prescribers; providing for patient, family and caregiver education; requiring continuing  
 14 education of licensed prescribers for administration of an opioid antagonist; and  
 15 authorizing emergency and legislative rulemaking.

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

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

**CHAPTER 16. PUBLIC HEALTH.**

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

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

1 (a) For purposes of this section:

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

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

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

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

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

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

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

26 (2) The administration of the opioid antagonist is done after consultation with medical  
27 command personnel: *Provided*, That an initial responder who otherwise meets the  
28 qualifications of this subsection may administer an opioid antagonist without consulting with  
29 medical command if he or she is unable to so consult due to an inability to contact medical  
30 command because of circumstances outside the control of the initial responder or if there is  
31 insufficient time for the consultation based upon the emergency conditions presented.

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

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

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

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

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

48 (4) The number of individuals who received the opioid antagonist who were not revived;

49 and

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

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

58 **§16-4C-25. Offer of emergency aid medication to patients prescribed opiates.**

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

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

7 (c) When a prescription is written to a patient for an opioid antagonist, or if the patient  
8 enters a methadone or suboxone addiction treatment program, information and education is  
9 required to be given to the patient and his or her family or caregiver as a condition of receiving  
10 the prescription or entering an addiction treatment program.

**CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

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

11 **§30-1-7a. Continuing education.**

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

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

21 (1) Notwithstanding any other provision of this code or the provision of any rule to the  
22 contrary, the West Virginia Board of Medicine, the West Virginia Board of Dental Examiners, the  
23 West Virginia Board of Optometry, the West Virginia Board of Pharmacy, the West Virginia Board  
24 of Examiners for Registered Professional Nurses, the West Virginia State Board of Examiners for

25 Licensed Practical Nurses and the West Virginia Board of Osteopathy shall establish continuing  
26 education requirements and criteria appropriate to their respective discipline on the subject of  
27 drug diversion training, ~~and~~ best-practice prescribing of controlled substances training and  
28 prescribing and administration of an opioid antagonist training for each person issued a license  
29 or certificate by their respective board who prescribes, administers or dispenses a controlled  
30 substance, as that term is defined in section one hundred one, article one, chapter sixty-a of this  
31 code, and shall develop a certification form pursuant to subdivision (b)(2) of this section.

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

44 (c) Notwithstanding any other provision of this code or the provision of any rule to the  
45 contrary, each person licensed to practice registered professional nursing or licensed as an  
46 advanced nurse practitioner by the West Virginia Board of Examiners for Registered Professional  
47 Nurses, each person licensed as a licensed practical nurse by the West Virginia State Board of  
48 Examiners for Licensed Practical Nurses, each person issued a license to practice midwifery as

49 a nurse-midwife by the West Virginia Board of Examiners for Registered Professional Nurses,  
50 each person issued a license to practice chiropractic by the West Virginia Board of Chiropractic,  
51 each person licensed to practice psychology by the Board of Examiners of Psychologists, each  
52 person licensed to practice social work by the West Virginia Board of Social Work, and each  
53 person licensed to practice professional counseling by the West Virginia Board of Examiners in  
54 Counseling, shall complete two hours of continuing education for each reporting period on mental  
55 health conditions common to veterans and family members of veterans, as the continuing  
56 education is established or approved by his or her respective licensing board. The two hours  
57 shall be part of the total hours of continuing education required by each board and not two  
58 additional hours.

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

67 (2) On or after July 1, 2017, each person licensed by any of the boards set forth in this  
68 subsection shall complete the continuing education described herein as a prerequisite to his or  
69 her next license renewal.



NOTE: The purpose of this bill is to allow police, fire and emergency service providers, to possess Naloxone or other opioid antagonists to administer in suspected narcotic drug overdoses. The bill sets guidelines for administration of these antagonists, establishes training requirements, provides immunities and outlines responsibilities.

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