

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4102

BY DELEGATES ROHRBACH, KESSINGER, ROBINSON,
WALKER, BARTLETT, ELLINGTON, HANNA, HORNBUCKLE,
D. KELLY, MANDT AND PUSHKIN

[Passed March 6, 2020; in effect from passage.]

1 AN ACT to amend and reenact §16-46-3 and §16-46-6 of the Code of West Virginia, 1931, as
2 amended; and to amend and reenact §60A-9-4 of said code, all relating to opioid
3 antagonists; prescribing an opioid antagonist; possessing an opioid antagonist;
4 dispensing an opioid antagonist; providing an opioid antagonist; collecting data related to
5 an opioid antagonist; requiring certain reporting of an opioid antagonist; providing
6 immunity; making technical changes.

Be it enacted by the Legislature of West Virginia:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 46. ACCESS TO OPIOID ANTAGONISTS ACT.

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

1 (a) The following individuals may prescribe an opioid antagonist in the manner prescribed
2 by this subsection:

3 (1) A licensed health care provider acting in good faith and exercising good reasonable
4 care may directly or by standing order prescribe an opioid antagonist to:

5 (A) A person at risk of experiencing an opioid-related overdose; or

6 (B) A family member, friend, or other person in a position to assist a person at risk of
7 experiencing an opioid-related overdose.

8 (2) A licensed health care provider acting in good faith and exercising reasonable care
9 may directly or by standing order prescribe an opioid antagonist to any governmental or non-
10 governmental organization, including a local health department, a law enforcement agency, or an
11 organization that promotes scientifically proven ways of mitigating health risks associated with
12 substance use disorders and other high risk behaviors, for the purpose of distributing, through its
13 agents, the opioid antagonist, to:

14 (A) A person at risk of experiencing an opioid-related overdose or

15 (B) A family member, friend, or other person in a position to assist a person at risk of
16 experiencing an opioid-related overdose.

17 (b) A pharmacist may dispense an opioid antagonist to a person or organization pursuant
18 to a prescription issued in accordance with subsection (a) of this section.

19 (c)(1) A governmental or non-governmental organization, including a local health
20 department, a law enforcement agency, or organization that promotes scientifically proven ways
21 to mitigate health risks associated with substance use disorders and other high-risk behaviors
22 may, through its trained agents, distribute an opioid antagonist obtained pursuant to a prescription
23 issued in accordance with this section to:

24 (A) A person at risk of experiencing an opioid-related overdose or

25 (B) A family member, friend, or other person in a position to assist a person at risk of
26 experiencing an opioid-related overdose.

27 (2) An organization, through its trained agents, shall include with any distribution of an
28 opioid antagonist pursuant to this subsection required education including opioid-related
29 overdose prevention and treatment programs and instruction on how to administer the opioid
30 antagonist.

31 (d) A person who receives an opioid antagonist that was prescribed pursuant to subsection
32 (a) or distributed pursuant to subsection (c) may administer an opioid antagonist to another person
33 if:

34 (1) The person has a good faith belief that the other person is experiencing a drug-related
35 overdose; and

36 (2) The person exercises reasonable care in administering the drug to another person.

37 (e) A person and organization acting in good faith under the provisions of this section are
38 immune from civil or criminal liability.

39 (f) A person and organization may possess an opioid antagonist, regardless of whether
40 the person or organization holds a prescription for the opioid antagonist.

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

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

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

8 (A) The number of training programs operating in an Office of Emergency Medical
9 Services-designated training center;

10 (B) The number of individuals who received training to administer an opioid antagonist;

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

13 (2) The distribution of an opioid antagonist by a governmental or non-governmental entity,
14 granting institution, medical provider, or pharmacy whose software cannot automatically report to
15 the West Virginia Controlled Substance Monitoring Program database must report to the West
16 Virginia Office of Drug Control Policy on a monthly basis. Report must be generated and
17 submitted by the 10th day of each month for the opioid antagonists dispensed or distributed in
18 the previous month. The following information must be reported:

19 (A) The name and address of the entity dispensing or distributing the opioid antagonist;

20 (B) The name and national drug code for each formulation of opioid antagonist dispensed
21 or distributed;

22 (C) The total quantity of each formulation of opioid antagonist dispensed or distributed.

23 (3) The West Virginia Board of Pharmacy shall query the West Virginia Controlled
24 Substances Monitoring Program database to compile all data related to the dispensing of opioid
25 antagonists and combine that data with any additional data maintained by the Board of Pharmacy

26 related to prescriptions for and distribution of opioid antagonists. The aggregate data shall be
27 reported to the West Virginia Office of Drug Control Policy by the 10th day of each month. By
28 February 1 and annually thereafter, the West Virginia Office of Drug Control Policy shall provide
29 a report of this information, excluding any personally identifiable information, to the Legislative
30 Oversight Commission on Health and Human Resources Accountability, Joint Committee on
31 Health and the West Virginia Bureau for Behavioral Health and Health Facilities.

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

CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.

ARTICLE 9. CONTROLLED SUBSTANCES MONITORING.

§60A-9-4. Required information.

1 (a) The following individuals shall report the required information to the Controlled
2 Substances Monitoring Program Database when:

3 (1) A medical services provider dispenses a controlled substance listed in Schedule II, III,
4 IV, or V;

5 (2) A prescription for the controlled substance or opioid antagonist is filled by:

6 (A) A pharmacist or pharmacy in this state;

7 (B) A hospital, or other health care facility, for outpatient use; or

8 (C) A pharmacy or pharmacist licensed by the Board of Pharmacy, but situated outside
9 this state for delivery to a person residing in this state; and

10 (3) A pharmacist or pharmacy sells an opioid antagonist.

11 (b) The above individuals shall in a manner prescribed by rules promulgated by the Board
12 of Pharmacy pursuant to this article, report the following information, as applicable:

13 (1) The name, address, pharmacy prescription number, and Drug Enforcement
14 Administration controlled substance registration number of the dispensing pharmacy or the
15 dispensing physician or dentist;

16 (2) The full legal name, address, and birth date of the person for whom the prescription is
17 written;

18 (3) The name, address, and Drug Enforcement Administration controlled substances
19 registration number of the practitioner writing the prescription;

20 (4) The name and national drug code number of the Schedule II, III, IV, and V controlled
21 substance or opioid antagonist dispensed;

22 (5) The quantity and dosage of the Schedule II, III, IV, and V controlled substance or opioid
23 antagonist dispensed;

24 (6) The date the prescription was written and the date filled;

25 (7) The number of refills, if any, authorized by the prescription;

26 (8) If the prescription being dispensed is being picked up by someone other than the
27 patient on behalf of the patient, information about the person picking up the prescription as set
28 forth on the person's government-issued photo identification card shall be retained in either print
29 or electronic form until such time as otherwise directed by rule promulgated by the Board of
30 Pharmacy; and

31 (9) The source of payment for the controlled substance dispensed.

32 (c) Whenever a medical services provider treats a patient for an overdose that has
33 occurred as a result of illicit or prescribed medication, the medical service provider shall report
34 the full legal name, address, and birth date of the person who is being treated, including any
35 known ancillary evidence of the overdose. The Board of Pharmacy shall coordinate with the

36 Division of Justice and Community Services and the Office of Drug Control Policy regarding the
37 collection of overdose data.

38 (d) The Board of Pharmacy may prescribe by rule promulgated pursuant to this article the
39 form to be used in prescribing a Schedule II, III, IV, and V substance or opioid antagonist if, in the
40 determination of the Board of Pharmacy, the administration of the requirements of this section
41 would be facilitated.

42 (e) Products regulated by the provisions of §60A-10-1 *et seq.* of this code shall be subject
43 to reporting pursuant to the provisions of this article to the extent set forth in said article.

44 (f) Reporting required by this section is not required for a drug administered directly to a
45 patient by a practitioner. Reporting is, however, required by this section for a drug dispensed to a
46 patient by a practitioner. The quantity dispensed by a prescribing practitioner to his or her own
47 patient may not exceed an amount adequate to treat the patient for a maximum of 72 hours with
48 no greater than two 72-hour cycles dispensed in any 15-day period of time.

49 (g) The Board of Pharmacy shall notify a physician prescribing buprenorphine or
50 buprenorphine/naloxone within 60 days of the availability of an abuse deterrent or a practitioner-
51 administered form of buprenorphine or buprenorphine/naloxone if approved by the Food and Drug
52 Administration as provided in FDA Guidance to Industry. Upon receipt of the notice, a physician
53 may switch his or her patients using buprenorphine or buprenorphine/naloxone to the abuse
54 deterrent or a practitioner-administered form of the drug

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2020.

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Governor