

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2839

BY DELEGATE C. THOMPSON

[Introduced March 02, 2021; 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 a new article,
 2 designated §16-63-1, §16-63-2, §16-63-3, and §16-63-4; to amend said code by adding
 3 thereto a new article, designated §16-64-1 and §16-64-2; to amend and reenact §18-5-22
 4 of said code; and to amend and reenact §55-7-15 of said code, all relating to providing
 5 naloxone to patients in the event of an emergency to ensure immunity; providing Naloxone
 6 medication to the families of those predisposed to overdoses; providing “Naloxone
 7 distribution days” sponsored by the State of West Virginia; making Naloxone kits available
 8 for distribution to first responders in public buildings, prisons, and treatment centers;
 9 providing naloxone to patients in the event of an emergency to ensure immunity; providing
 10 Naloxone medication to the families of those predisposed to overdoses and who have
 11 addiction issues; providing “Naloxone distribution days” sponsored by the State of West
 12 Virginia; making Naloxone kits available for distribution to first responders in public
 13 buildings, prisons, treatment centers, etc.; and providing mental health professionals to
 14 school-aged children in West Virginia to accompany the nurses who are already there and
 15 to ensure that enough mental healthcare opportunities are given to West Virginia
 16 schoolchildren who have loved ones dealing with addiction issues or addition tendencies.
 17 This shall be known as the “Recovery Can’t Wait Act.”

Be it enacted by the Legislature of West Virginia:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 63. NALOXONE RECOVERY DISTRIBUTION ACT.

§16-63-1. Definitions.

1 For the purposes of this article:

2 “DHHR” means the West Virginia Department of Health and Human Resources.

3 “Naloxone” is a class of medication that works by blocking the effects of opiates to relieve
 4 dangerous symptoms caused by high levels of opiates in the blood system.

5 “Naloxone kits” means a kit that contains the medication for those who need it in an
6 emergency situation and may also contain literature on its safe use.

7 “Victim” means any person requiring the use of the drug Naloxone to provide them with
8 life-saving treatment in the event of a drug overdose.

§16-63-2. Purpose.

1 It is in the best interest of all West Virginians to increase access to naloxone, because
2 every life is worth saving. In expanding the availability of this drug to those who need it most,
3 many states offer free Naloxone distribution days, and such days provide the ability of these life-
4 saving drugs to reach those who need them most. In expanding Naloxone availability, this section
5 shall also allow “QRT” teams and other first responders to do “Naloxone dispensation,” that is,
6 leaving Naloxone behind for families, friends, and others for use in the event of an emergency.
7 This section shall also provide a means by which Naloxone can be provided to habitual or known
8 at -risk users before an overdose. Naloxone kits shall be made available during first-aid trainings,
9 shall be a target drug for the State of West Virginia’s bulk-buying program, and shall be made
10 available in all public buildings, prisons, treatment centers, etc.

§16-63-3. Free Naloxone Distribution Day in West Virginia.

1 On the first Saturday in June every year, there shall be designated a “Free Naloxone
2 Distribution Day” in the State of West Virginia. On this day, the State of West Virginia shall provide
3 Naloxone kits to any participating pharmacy in West Virginia for the purpose of distribution to
4 those who may need it in the event of an emergency. Those who participate in Naloxone
5 Distribution Day shall be provided literature by the West Virginia Department of Health and Human
6 Resources about the safe use of Naloxone in an emergency situation. The Naloxone kits shall be
7 provided at no cost to those who request them, and there is no need for a prescription, insurance
8 or identification.

§16-63-4. Controlled Naloxone Distribution and Training for the Public.

1 When necessary, first responders in the State of West Virginia may provide Naloxone kits

2 to families, friends, etc. who have someone who could be predisposed to an overdose or an event
3 requiring such medication. Such first responders shall also make Naloxone kits available during
4 first-aid trainings. Naloxone kits shall be made available in all public buildings, prisons, treatment
5 centers, etc.

ARTICLE 64. WEST VIRGINIA RECOVERY CENTERS ACT.

§16-64-1. Legislative Findings and Purpose.

1 West Virginians are facing a drug epidemic like never seen before, and the path to
2 recovery from substance use disorder and mental illness is different for everyone. Because of
3 this, it is necessary to establish Recovery Centers regionally across the State so that one has to
4 wait months for critically needed treatment. These centers will offer all of the following, either on-
5 site or through referral: MAT, abstinence-based care, naloxone training, peer recovery coaching,
6 robust harm reduction, mental health treatment, Crisis Stabilization Units, primary care, job
7 services, case management, and more.

8 The board of each Recovery Center will include representation from local first responders,
9 medical professionals, community leaders--and a majority will be people in recovery. This system
10 will draw from the State of Vermont's "hub-and-spoke" model to create reliable, consistent, rural
11 systems of treatment, prevention, mental health services, neo-natal abstinence syndrome (NAS),
12 and crisis response. It is the goal of the State of West Virginia to ensure that each region of the
13 State of West Virginia has a lead, as opposed to a centralized statewide leadership model.

§16-64-2. Recovery Center Model.

1 The State of West Virginia shall adopt a "hub and spoke" model for Medication Assisted
2 Treatment, supporting people in recovery from opioid use disorder. There shall be Regional Hubs
3 established across the state which will offer daily support for patients with complex addictions. At
4 these hubs, doctors, nurses, and counselors offer ongoing opioid use disorder treatment fully
5 integrated with general healthcare and wellness services. This framework efficiently deploys
6 opioid use disorder expertise and helps expand access to opioid use disorder treatment for West

7 Virginians.

8 At these recovery centers, Medication Assisted Treatment (MAT) shall be utilized. MAT
9 uses medication such as methadone and buprenorphine, as part of a comprehensive opioid use
10 disorder treatment program that includes counseling. Medication Assisted Treatment is not the
11 only treatment for opioid use disorder, but it is the most effective treatment for most people. It is
12 supported by the American Medical Association, the American Academy of Addiction Psychiatry,
13 and the American Society of Addiction Medicine. Federal regulations designate two settings
14 where Medication Assisted Treatment can take place, Opioid Treatment Programs (OTPs) and
15 Office Based Opioid Treatment (OBOT) settings.

16 These recovery centers shall operate as hubs. At these hubs, Opioid Treatment Programs,
17 with expanded services and strong connections, shall connect to those seeking recovery. Each
18 Hub in West Virginia shall be the source for its area's most intensive opioid use disorder treatment
19 options, provided by highly experienced staff. Hubs offer the treatment intensity and staff
20 expertise that some people require at the beginning of their recovery, at points during their
21 recovery, or all throughout their recovery. These hubs provide daily medication and therapeutic
22 support. Patients receiving buprenorphine or vivitrol may move back and forth between Hub and
23 Spoke settings over time, as their treatment needs change.

24 Hubs offer all elements of Medication Assisted Treatment, including assessment,
25 medication dispensing, individual and group counseling, and more. Additional Health Home
26 supports are made available at Hubs through the Hub & Spoke staffing and payment model.
27 These include case management, care coordination, management of transitions of care, family
28 support services, health promotion, and referral to community services. In addition to treating their
29 own patients, Hub staff offer trainings and consultation to the Spoke providers.

30 Spokes are Office Based Opioid Treatment settings, located in communities across West
31 Virginia. At many Spokes, addictions care is integrated into general medical care, like treatment
32 for other chronic diseases. The Spokes are mostly primary care or family medicine practices, and

33 include obstetrics and gynecology practices, specialty outpatient addictions programs, and
34 practices specializing in chronic pain. Prescribers in Spoke settings are physicians, nurse
35 practitioners, and physician's assistants federally waived to prescribe buprenorphine. They may
36 also provide oral naltrexone or injectable Vivitrol. People with less complex needs may begin their
37 treatment at a Spoke, other patients transition to a Spoke after beginning recovery in a Hub.
38 Spoke care teams include one nurse and one licensed mental health or addictions counselor per
39 100 patients. These Spoke staff provide specialized nursing, counseling and care management
40 to support patients in recovery, this staff assures team-based care and helps primary care
41 providers balance MAT patient care with the needs of their full patient panel.

CHAPTER 18. EDUCATION.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-22. Medical and dental inspection; school nurses; specialized health procedures; establishment of council of school nurses.

1 (a) County boards shall provide proper medical and dental inspections for all pupils
2 attending the schools of their county and have the authority to take any other action necessary to
3 protect the pupils from infectious diseases, including the authority to require from all school
4 personnel employed in their county, certificates of good health and of physical fitness.

5 (b) Each county board shall employ full time at least one school nurse for every one
6 thousand five hundred kindergarten through seventh grade pupils in net enrollment or major
7 fraction thereof: *Provided*, That each county shall employ full time at least one school nurse:
8 *Provided, however*, That a county board may contract with a public health department for services
9 considered equivalent to those required by this section in accordance with a plan to be approved
10 by the state board: *Provided further*, That the state board shall promulgate rules requiring the
11 employment of school nurses in excess of the number required by this section to ensure adequate
12 provision of services to severely handicapped pupils. An appropriation may be made to the state

13 department to be distributed to county boards to support school health service needs that exceed
14 the capacity of staff as mandated in this section. Each county board shall apply to the state
15 superintendent for receipt of this funding in a manner set forth by the state superintendent that
16 assesses and takes into account varying acuity levels of students with specialized health care
17 needs.

18 (c) Any person employed as a school nurse must be a registered professional nurse
19 properly licensed by the West Virginia Board of Examiners for Registered Professional Nurses in
20 accordance with article seven, chapter thirty of this code.

21 (d) Specialized health procedures that require the skill, knowledge and judgment of a
22 licensed health professional may be performed only by school nurses, other licensed school
23 health care providers as provided in this section, or school employees who have been trained and
24 retrained every two years who are subject to the supervision and approval by school nurses. After
25 assessing the health status of the individual student, a school nurse, in collaboration with the
26 student's physician, parents and, in some instances, an individualized education program team,
27 may delegate certain health care procedures to a school employee who shall be trained pursuant
28 to this section, considered competent, have consultation with, and be monitored or supervised by
29 the school nurse: *Provided*, That nothing in this section prohibits any school employee from
30 providing specialized health procedures or any other prudent action to aid any person who is in
31 acute physical distress or requires emergency assistance. For the purposes of this section
32 "specialized health procedures" means, but is not limited to, catheterization, suctioning of
33 tracheostomy, naso-gastric tube feeding or gastrostomy tube feeding. "School employee" means
34 "teachers" as defined in section one, article one of this chapter and "aides" as defined in section
35 eight, article four, chapter eighteen-a of this code. Commencing with the school year beginning
36 on July 1, 2002, "school employee" also means "secretary I", "secretary II" and "secretary III" as
37 defined in section eight, article four, chapter eighteen-a of this code: *Provided, however*, That a
38 "secretary I", "secretary II" and "secretary III" shall be limited to the dispensing of medications.

39 (e) Any school service employee who elects, or is required by this section, to undergo
40 training or retraining to provide, in the manner specified in this section, the specialized health care
41 procedures for those students for which the selection has been approved by both the principal
42 and the county board shall receive additional pay of at least one pay grade higher than the highest
43 pay grade for which the employee is paid: *Provided*, That any training required in this section may
44 be considered in lieu of required in-service training of the school employee and a school employee
45 may not be required to elect to undergo the training or retraining: *Provided, however*, That
46 commencing with July 1, 1989, any newly employed school employee in the field of special
47 education is required to undergo the training and retraining as provided in this section: *Provided*
48 *further*, That if an employee who holds a class title of an aide is employed in a school and the
49 aide has received the training, pursuant to this section, then an employee in the field of special
50 education is not required to perform the specialized health care procedures.

51 (f) Each county school nurse, as designated and defined by this section, shall perform a
52 needs assessment. These nurses shall meet on the basis of the area served by their regional
53 educational service agency, prepare recommendations and elect a representative to serve on the
54 council of school nurses established under this section.

55 (g) There shall be a council of school nurses which shall be convened by the state Board
56 of Education. This council shall prepare a procedural manual and shall provide recommendations
57 regarding a training course to the Commissioner of the Bureau for Public Health who shall consult
58 with the state Department of Education. The state board then has the authority to promulgate a
59 rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code to
60 implement the training and to create standards used by those school nurses and school
61 employees performing specialized health procedures. The council shall meet every two years to
62 review the certification and training program regarding school employees.

63 (h) The State Board of Education shall work in conjunction with county boards to provide
64 training and retraining every two years as recommended by the Council of School Nurses and

65 implemented by the rule promulgated by the state board.

66 (i) There shall be at least one mental health professional in every school in West Virginia,
67 in order to provide direct and reimbursed mental health services to school children. The purpose
68 of these mental health professionals in schools is to provide counseling to those students who
69 have family members that are struggling with addiction issues. These mental health professionals
70 will partner with local agencies to provide wraparound services for school aged kids, will support
71 teachers and school personnel with available mental health services and targeted help for those
72 struggling with addiction, and will spearhead trauma-informed practices throughout the school
73 environment for kids, parents, teachers, and school service personnel who have loved ones
74 dealing with addiction. These mental health professionals will be available in pre-K learning
75 facilities as well. The counselor-to-student ratio will be aligned with the 250:1 ratio recommended
76 by the American School Counselor Association, and counselor clerical work shall be alleviated so
77 that these counselors are best able to serve West Virginia school children who have loved ones
78 dealing with addiction issues.

CHAPTER 55. ACTIONS, SUITS AND ARBITRATION; JUDICIAL SALE.

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-15. Aid to victim of accident and victim of crime; immunity from civil liability.

1 No person, including a person licensed to practice medicine or dentistry, who in good faith
2 renders emergency care at the scene of an accident or to a victim at the scene of a crime, without
3 remuneration, shall be liable for any civil damages as the result of any act or omission in rendering
4 such emergency care. This shall include the use of the medication naloxone by emergency
5 responders, immediate family members, or good Samaritans who render aid to such victims
6 requiring the life-saving medication.

NOTE: The purpose of this bill is to expand the availability of the drug naloxone to victims who require its use for emergency purposes, to provide immunity to those providing the

drug to overdose victims, to establish Naloxone distribution days to ensure that West Virginians prone to overdoses have available lifesaving medicine, to make naloxone kits available in public buildings, treatment centers, and to provide mental health professionals in West Virginia schools in order to help them deal with the consequences of familial addiction.

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