

1 ENROLLED

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 335**

5 (By Senators Cole (Mr. President) and Kessler,

6 By Request of the Executive)

7 _____
8 [Passed February 26, 2015; in effect ninety days from passage.]
9 _____

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11
12 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
13 designated §16-46-1, §16-46-2, §16-46-3, §16-46-4, §16-46-5 and §16-46-6; and to amend
14 and reenact §30-1-7a of said code, all relating generally to accessing and administering
15 opioid antagonists in overdose situations; defining terms; establishing objectives and
16 purpose; allowing licensed health care providers to prescribe opioid antagonist to initial
17 responders and certain individuals; allowing initial responders to possess and administer
18 opioid antagonists; providing for limited liability for initial responders; providing for limited
19 liability for licensed health care providers who prescribe opioid antagonist in accordance
20 with this article; providing for limited liability for anyone who possesses and administers an
21 opioid antagonist; establishing responsibility of licensed health care providers to provide
22 educational materials on overdose prevention and administration of opioid antagonist;

1 providing for data collection and reporting; providing for training requirements; and
2 providing for rule-making authority.

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

4 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
5 article, designated §16-46-1, §16-46-2, §16-46-3, §16-46-4, §16-46-5 and §16-46-6; and that §30-1-
6 7a of said code be amended and reenacted, all to read as follows:

7 **CHAPTER 16. PUBLIC HEALTH.**

8 **ARTICLE 46. ACCESS TO OPIOID ANTAGONISTS ACT.**

9 **§16-46-1. Purpose and findings.**

10 (a) The purpose of this article is to prevent deaths in circumstances involving individuals who
11 have overdosed on opiates.

12 (b) The Legislature finds that permitting licensed health care providers to prescribe opioid
13 antagonists to initial responders as well as individuals at risk of experiencing an overdose, their
14 relatives, friends or caregivers may prevent accidental deaths as a result of opiate-related overdoses.

15 **§16-46-2. Definitions.**

16 As used in this article:

17 (1) “Initial responder” means emergency medical service personnel, as defined in subdivision
18 (g), section three, article four-c of this chapter, including, but not limited to, a member of the West
19 Virginia State Police, a sheriff, a deputy sheriff, a municipal police officer, a volunteer or paid
20 firefighter and any other person acting under color of law who responds to emergencies.

21 (2) “Licensed health care provider” means a person, partnership, corporation, professional
22 limited liability company, health care facility or institution licensed by or certified in this state to

1 provide health care or professional health care services. This includes, but is not limited to, medical
2 physicians, allopathic and osteopathic physicians, pharmacists, physician assistants or osteopathic
3 physician assistants who hold a certificate to prescribe drugs, advanced nurse practitioners who hold
4 a certificate to prescribe drugs, hospitals, emergency service agencies and others as allowed by law
5 to prescribed drugs.

6 (3) “Opiates” or “opioid drugs” means drugs that are members of the natural and synthetic
7 opium family, including, but not limited to, heroin, morphine, codeine, methadone, oxycodone,
8 hydrocodone, fentanyl and hydromorphone.

9 (4) “Opioid antagonist” means a federal Food and Drug Administration-approved drug for
10 the treatment of an opiate-related overdose, such as naloxone hydrochloride or other substance, that,
11 when administered, negates or neutralizes, in whole or in part, the pharmacological effects of an opioid
12 in the body.

13 (5) “Opioid overdose prevention and treatment training program” or “program” means any
14 program operated or approved by the Office of Emergency Medical Services as set forth in rules
15 promulgated pursuant to this article.

16 (6) “Overdose” means an acute condition, including, but not limited to, life-threatening
17 physical illness, coma, mania, hysteria or death, which is the result of the consumption or use of
18 opioid drugs.

19 (7) “Standing order” means a written document containing rules, policies, procedures,
20 regulations and orders for the conduct of patient care, including the condition being treated, the
21 action to be taken and the dosage and route of administration for the drug prescribed.

22 **§16-46-3. Licensed health care providers may prescribe opioid antagonists to initial**

1 **responders and certain individuals; required educational materials; limited**
2 **liability.**

3 (a) All licensed health care providers in the course of their professional practice may offer
4 to initial responders a prescription for opioid antagonists, including a standing order, to be used
5 during the course of their professional duties as initial responders.

6 (b) All licensed health care providers in the course of their professional practice may offer
7 to a person considered by the licensed health care provider to be at risk of experiencing an opiate-
8 related overdose, or to a relative, friend, caregiver or person in a position to assist a person at risk
9 of experiencing an opiate-related overdose, a prescription for an opioid antagonist.

10 (c) All licensed health care providers who prescribe an opioid antagonist under this section
11 shall provide educational materials to any person or entity receiving such a prescription on opiate-
12 related overdose prevention and treatment programs, as well as materials on administering the
13 prescribed opioid antagonist.

14 (d) Any person who possesses an opioid antagonist and administers it to a person whom they
15 believe to be suffering from an opioid-related overdose and who is acting in good faith is not, as a
16 result of his or her actions or omissions, subject to criminal prosecution arising from the possession
17 of an opioid antagonist or subject to any civil liability with respect to the administration of or failure
18 to administer the opioid antagonist unless the act or failure to act was the result of gross negligence
19 or willful misconduct.

20 (e) Any person who administers an opioid antagonist to a person whom they believe to be
21 suffering from an opioid-related overdose is required to seek additional medical treatment at a
22 medical facility for that person immediately following the administration of the opioid antagonist

1 to avoid further complications as a result of suspected opioid-related overdose.

2 **§16-46-4. Possession and administration of an opioid antagonist by an initial responder;**
3 **limited liability.**

4 (a) An initial responder who is not otherwise authorized to administer opioid antagonists may
5 possess opioid antagonists in the course of his or her professional duties as an initial responder and
6 administer an opioid antagonist in an emergency situation if:

7 (1) The initial responder has successfully completed the training required by subsection (b),
8 section six of this article; and

9 (2) The administration thereof is done after consultation with medical command, as defined
10 in subdivision (k), section three, article four-c of this chapter: *Provided*, That an initial responder
11 may administer an opioid antagonist without consulting medical command if he or she is unable to
12 so consult due to an inability to contact medical command because of circumstances outside the
13 control of the initial responder or if there is insufficient time for the consultation based upon the
14 emergency conditions presented.

15 (b) An initial responder who meets the requirements of subsection (a) of this section, acting
16 in good faith, is not, as a result of his or her actions or omissions, subject to civil liability or criminal
17 prosecution arising from or relating to the administration of the opioid antagonist unless the actions
18 or omissions were the result of the initial responder's gross negligence or willful misconduct.

19 **§16-46-5. Licensed health care providers' limited liability related to opioid antagonist**
20 **prescriptions.**

21 (a) A licensed health care provider who is permitted by law to prescribe drugs, including
22 opioid antagonists, may, if acting in good faith, prescribe and subsequently dispense or distribute an

1 opioid antagonist without being subject to civil liability or criminal prosecution unless prescribing
2 the opioid antagonist was the result of the licensed health care provider's gross negligence or willful
3 misconduct.

4 (b) For purposes of this chapter and chapter sixty-a, any prescription written, as described
5 in section three of this article, shall be presumed as being issued for a legitimate medical purpose
6 in the usual course of professional practice unless the presumption is rebutted by a preponderance
7 of the evidence.

8 **§16-46-6. Data collection and reporting requirements; training.**

9 (a) Beginning March 1, 2016, and annually thereafter the following reports shall be compiled:

10 (1) The Office of Emergency Medical Services shall collect data regarding each
11 administration of an opioid antagonist by an initial responder. The Office of Emergency Medical
12 Services shall report this information to the Legislative Oversight Commission on Health and Human
13 Resources Accountability and the West Virginia Bureau for Behavioral Health and Health Facilities.
14 The data collected and reported shall include:

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

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

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

20 (D) The number of individuals who received an opioid antagonist administered by an initial
21 responder who were revived;

22 (E) The number of individuals who received an opioid antagonist administered by an initial

1 responder who were not revived; and

2 (F) The cause of death of individuals who received an opioid antagonist administered by an
3 initial responder and were not revived.

4 (2) Each licensed health care provider shall submit data to the West Virginia Board of
5 Pharmacy by February 1 of each calendar year, excluding any personally identifiable information,
6 regarding the number of opioid antagonist prescriptions written in accordance with this article in the
7 preceding calendar year. The licensed health care provider shall indicate whether the prescription
8 was written to an individual in the following categories: An initial responder; an individual at risk
9 of opiate-related overdose; a relative of a person at risk of experiencing an opiate-related overdose;
10 a friend of a person at risk of experiencing an opiate-related overdose; or a caregiver or person in a
11 position to assist a person at risk of experiencing an opiate-related overdose.

12 (3) The West Virginia Board of Pharmacy shall compile all data described in subdivision (2)
13 of this section and any additional data maintained by the Board of Pharmacy related to prescriptions
14 of opioid antagonists. By March 1 and annually thereafter, the Board of Pharmacy shall provide a
15 report of this information to the Legislative Oversight Commission on Health and Human Resources
16 Accountability and the West Virginia Bureau for Behavioral Health and Health Facilities.

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

1 **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

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

4 **§30-1-7a. Continuing education.**

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

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

1 controlled substance, as that term is defined in section one hundred one, article one, chapter sixty-a
2 of this code.

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

14 (2) Each person who receives his or her initial license or certificate from any of the boards
15 set forth in subsection (b) of this section shall complete the continuing education requirements set
16 forth in subsection (b) of this section within one year of receiving his or her initial license from that
17 board and each person licensed or certified by any of the boards set forth in subsection (b) of this
18 section who has held his or her license or certificate for longer than one year shall complete the
19 continuing education requirements set forth in subsection (b) of this section as a prerequisite to each
20 license renewal: *Provided*, That a person subject to subsection (b) of this section may waive the
21 continuing education requirements for license renewal set forth in subsection (b) of this section if
22 he or she completes and submits to his or her licensing board a certification form developed by his

1 or her licensing board attesting that he or she has not prescribed, administered or dispensed a
2 controlled substance, as that term is defined in section one hundred one, article one, chapter sixty-a
3 of this code, during the entire applicable reporting period.

4 (c) Notwithstanding any other provision of this code or the provision of any rule to the
5 contrary, each person licensed to practice registered professional nursing or licensed as an advanced
6 nurse practitioner by the West Virginia Board of Examiners for Registered Professional Nurses, each
7 person licensed as a licensed practical nurse by the West Virginia State Board of Examiners for
8 Licensed Practical Nurses, each person issued a license to practice midwifery as a nurse-midwife by
9 the West Virginia Board of Examiners for Registered Professional Nurses, each person issued a
10 license to practice chiropractic by the West Virginia Board of Chiropractic, each person licensed to
11 practice psychology by the Board of Examiners of Psychologists, each person licensed to practice
12 social work by the West Virginia Board of Social Work and each person licensed to practice
13 professional counseling by the West Virginia Board of Examiners in Counseling shall complete two
14 hours of continuing education for each reporting period on mental health conditions common to
15 veterans and family members of veterans, as the continuing education is established or approved by
16 his or her respective licensing board. The two hours shall be part of the total hours of continuing
17 education required by each board and not two additional hours.

18 (1) Notwithstanding any other provision of this code or the provision of any rule to the
19 contrary, on or before July 1, 2015, the boards referred to in this subsection shall establish continuing
20 education requirements and criteria and approve continuing education coursework appropriate to
21 their respective discipline on the subject of mental health conditions common to veterans and family
22 members of veterans, in cooperation with the Secretary of the Department of Veterans' Assistance.

1 The continuing education shall include training on inquiring about whether the patients are veterans
2 or family members of veterans, and screening for conditions such as post-traumatic stress disorder,
3 risk of suicide, depression and grief and prevention of suicide.

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

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