

[First Reprint]
SENATE, No. 295

STATE OF NEW JERSEY
217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Co-Sponsored by:

Senators Addiego, Whelan, Assemblymen Holley, Johnson, Assemblywoman McKnight, Assemblymen O'Scanlon, Lagana and Houghtaling

SYNOPSIS

Requires DOH to issue standing order authorizing pharmacists to dispense opioid antidotes to patients without individual prescriptions.

CURRENT VERSION OF TEXT

As reported by the Assembly Health and Senior Services Committee on February 27, 2017, with amendments.

(Sponsorship Updated As Of: 3/24/2017)

1 AN ACT concerning overdose prevention and the dispensation of
2 opioid antidotes ¹**[,]** ¹and¹ supplementing P.L.2003, c.280
3 (C.45:14-40 et seq.) ¹**[, and amending P.L.2013, c.46]**¹.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. ¹**[(New section)]**¹ a. Notwithstanding any other law or
9 regulation to the contrary, a pharmacist may dispense ¹**[or**
10 **otherwise supply]**¹ an opioid antidote to any patient, regardless of
11 whether the patient holds an individual prescription ¹**[therefor;**
12 **provided that the pharmacist complies]** for the opioid antidote,
13 pursuant to a standing order issued by a prescriber or pursuant to
14 the standing order issued pursuant to subsection b. of this section.
15 A pharmacist who dispenses an opioid antidote pursuant to this
16 section shall comply¹ with the provisions of the “Overdose
17 Prevention Act,” P.L.2013, c.46 (C.24:6J-1 et ¹**[seq.] al.**¹) ¹**[and, if**
18 **applicable, the standardized protocols established by the Board of**
19 **Pharmacy pursuant to this section]**¹.

20 b. ¹**[(1) Within 90 days after the effective date of P.L. ,**
21 **c. (C.) (pending before the Legislature as this bill), the Board**
22 **of Pharmacy shall adopt standardized protocols for licensed**
23 **pharmacists to supply opioid antidotes to patients who do not**
24 **present an individual prescription therefor.**

25 (2) The standardized protocols established pursuant to this
26 subsection shall be consistent with the provisions of the “Overdose
27 Prevention Act,” P.L.2013, c.46 (C.24:6J-1 et seq.), and shall
28 require a licensed pharmacist to determine, in accordance with the
29 provisions of subsection a. of section 4 of the “Overdose Prevention
30 Act,” P.L.2013, c.46 (C.24:6J-4), and prior to supplying an opioid
31 antidote to a patient without a prescription therefor, that the patient
32 is capable of administering the opioid antidote to an overdose
33 victim in an emergency] The Commissioner of Health, or, if the
34 commissioner is not a duly licensed physician, the Deputy
35 Commissioner for Public Health Services, shall issue, upon request
36 by a pharmacist licensed to practice in this State, a standing order
37 authorizing the pharmacist to dispense an opioid antidote to any
38 patient, regardless of whether the patient holds an individual
39 prescription for the opioid antidote, provided the pharmacist
40 complies with the requirements of the “Overdose Prevention Act,”
41 P.L.2013, c.46 (C.24:6J-1 et al.)¹.

42 c. As used in this section:

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHE committee amendments adopted February 27, 2017.

1 “Opioid antidote” means naloxone hydrochloride, or any other
2 similarly acting drug approved by the United States Food and Drug
3 Administration for self-administration for¹ the treatment of an
4 opioid overdose.

5 “Patient” means ¹**[a person who is at risk of an opioid overdose**
6 or a person who is not at risk of an opioid overdose who, in the
7 person’s individual capacity, obtains an opioid antidote from a
8 pharmacist for the purpose of administering that antidote to another
9 person in an emergency, in accordance with the provisions of
10 subsection d. of section 4 of the “Overdose Prevention Act,”
11 P.L.2013, c.46 (C.24:6J-4)] the same as that term is defined in
12 section 3 of P.L.2013, c.46 (C.24:6J-3).

13 “Prescriber means the same as that term is defined in section 3 of
14 P.L.2013, c.46 (C.24:6J-3)¹.

15

16 ¹**[2.**Section 3 of P.L.2013, c.46 (C.24:6J-3) is amended to read
17 as follows:

18 3. As used in this act:

19 "Commissioner" means the Commissioner of Human Services.

20 "Drug overdose" means an acute condition including, but not
21 limited to, physical illness, coma, mania, hysteria, or death resulting
22 from the consumption or use of a controlled dangerous substance or
23 another substance with which a controlled dangerous substance was
24 combined and that a layperson would reasonably believe to require
25 medical assistance.

26 "Emergency medical response entity" means an organization,
27 company, governmental entity, community-based program, or
28 healthcare system that provides pre-hospital emergency medical
29 services and assistance to opioid **[or heroin addicts or abusers]**
30 users in the event of an overdose.

31 "Emergency medical responder" means a person, other than a
32 health care practitioner, who is employed on a paid or volunteer
33 basis in the area of emergency response, including, but not limited
34 to, an emergency medical technician acting in that person's
35 professional capacity.

36 "Health care practitioner" means a prescriber, pharmacist, or
37 other individual whose professional practice is regulated pursuant to
38 Title 45 of the Revised Statutes, and who, in accordance with the
39 practitioner's scope of professional practice, prescribes or dispenses
40 an opioid antidote.

41 "Medical assistance" means professional medical services that
42 are provided to a person experiencing a drug overdose by a health
43 care practitioner, acting within the practitioner's scope of
44 professional practice, including professional medical services that
45 are mobilized through telephone contact with the 911 telephone
46 emergency service.

1 "Opioid antidote" means naloxone hydrochloride, or any other
2 similarly acting drug approved by the United States Food and Drug
3 Administration for the treatment of an opioid overdose.

4 "Patient" means a person who is at risk of an opioid overdose or
5 a person who is not at risk of an opioid overdose who, in the
6 person's individual capacity, obtains an opioid antidote from a
7 health care practitioner, professional, or professional entity for the
8 purpose of administering that antidote to another person in an
9 emergency, in accordance with subsection **[c.] d.** of section 4 of
10 P.L.2013, c.46 (C.24:6J-4). "Patient" includes a professional who is
11 acting in that professional's individual capacity, but does not
12 include a professional who is acting in a professional capacity.

13 "Prescriber" means a health care practitioner authorized by law
14 to prescribe medications who, acting within the practitioner's scope
15 of professional practice, prescribes an opioid antidote. "Prescriber"
16 includes, but is not limited to, a physician, physician assistant, or
17 advanced practice nurse.

18 "Professional" means a person, other than a health care
19 practitioner, who is employed on a paid basis or is engaged on a
20 volunteer basis in the areas of substance abuse treatment or therapy,
21 criminal justice, or a related area, and who, acting in that person's
22 professional or volunteer capacity, obtains an opioid antidote from a
23 health care practitioner for the purposes of dispensing or
24 administering that antidote to other parties in the course of business
25 or volunteer activities. "Professional" includes, but is not limited
26 to, a sterile syringe access program employee, or a law enforcement
27 official.

28 "Professional entity" means an organization, company,
29 governmental entity, community-based program, sterile syringe
30 access program, or any other organized group that employs two or
31 more professionals who engage, during the regular course of
32 business or volunteer activities, in direct interactions with opioid
33 **[or heroin addicts or abusers] users** or other persons susceptible to
34 opioid overdose, or with other persons who are in a position to
35 provide direct medical assistance to opioid **[or heroin addicts or**
36 **abusers] users** in the event of an overdose.

37 "Recipient" means a patient, professional, professional entity,
38 emergency medical responder, or emergency medical response
39 entity who is prescribed **[or] , dispensed , or otherwise supplied,** an
40 opioid antidote in accordance with section 4 of P.L.2013, c.46
41 (C.24:6J-4).

42 (cf: P.L.2015, c.10, s.1)¹

43
44 ¹**[3.**Section 4 of P.L.2013, c.46 (C.24:6J-4) is amended to read
45 as follows:

46 4. a. (1) A prescriber or other health care practitioner, as
47 appropriate, may prescribe or dispense an opioid antidote:

1 (a) directly or through a standing order, to any recipient who is
2 deemed by the health care practitioner to be capable of
3 administering the opioid antidote to an overdose victim in an
4 emergency;

5 (b) through a standing order, to any professional or emergency
6 medical responder who is not acting in a professional or volunteer
7 capacity for a professional entity, or an emergency medical
8 response entity, but who is deemed by the health care practitioner to
9 be capable of administering opioid antidotes to overdose victims, as
10 part of the professional's regular course of business or volunteer
11 activities;

12 (c) through a standing order, to any professional who is not
13 acting in a professional or volunteer capacity for a professional
14 entity, but who is deemed by the health care practitioner to be
15 capable of dispensing opioid antidotes to recipients, for
16 administration thereby, as part of the professional's regular course
17 of business or volunteer activities;

18 (d) through a standing order, to any professional entity or any
19 emergency medical response entity, which is deemed by the health
20 care practitioner to employ professionals or emergency medical
21 responders, as appropriate, who are capable of administering opioid
22 antidotes to overdose victims as part of the entity's regular course of
23 business or volunteer activities; or

24 (e) through a standing order, to any professional entity which is
25 deemed by the health care practitioner to employ professionals who
26 are capable of dispensing opioid antidotes to recipients, for
27 administration thereby, as part of the entity's regular course of
28 business or volunteer activities.

29 (2) Notwithstanding any other law or regulation to the contrary,
30 a licensed pharmacist who is authorized to dispense an opioid
31 antidote pursuant to this subsection may dispense or otherwise
32 supply an opioid antidote to any patient, regardless of whether the
33 patient has an individual prescription therefor; provided that the
34 patient is deemed to be capable of administering the opioid antidote
35 to an overdose victim in an emergency, and provided, further, that
36 the pharmacist acts in compliance with the standardized protocols
37 established by the Board of Pharmacy, pursuant to section 1 of
38 P.L. , c. (C.) (pending before the Legislature as this bill),
39 when supplying an opioid antidote to a patient who lacks a
40 prescription therefor.

41 (3) (a) For the purposes of this subsection, whenever the law
42 expressly authorizes or requires a certain type of professional or
43 professional entity to obtain a standing order for opioid antidotes
44 pursuant to this section, such professional, or the professionals
45 employed or engaged by such professional entity, as the case may
46 be, shall be presumed by the prescribing or dispensing health care
47 practitioner to be capable of administering or dispensing the opioid
48 antidote, consistent with the express statutory requirement.

1 (b) For the purposes of this subsection, whenever the law
2 expressly requires a certain type of emergency medical responder or
3 emergency medical response entity to obtain a standing order for
4 opioid antidotes pursuant to this section, such emergency medical
5 responder, or the emergency medical responders employed or
6 engaged by such emergency medical response entity, as the case
7 may be, shall be presumed by the prescribing or dispensing health
8 care practitioner to be capable of administering the opioid antidote,
9 consistent with the express statutory requirement.

10 ~~[(3)]~~ (4) (a) Whenever a prescriber or other health care
11 practitioner prescribes or dispenses an opioid antidote to a
12 professional or professional entity pursuant to a standing order
13 issued under paragraph (1) of this subsection, the standing order
14 shall specify whether the professional or professional entity is
15 authorized thereby to directly administer the opioid antidote to
16 overdose victims; to dispense the opioid antidote to recipients, for
17 their administration to third parties; or to both administer and
18 dispense the opioid antidote. If a standing order does not include a
19 specification in this regard, it shall be deemed to authorize the
20 professional or professional entity only to administer the opioid
21 antidote with immunity, as provided by subsection ~~[c.]~~ d. of this
22 section, and it shall not be deemed to authorize the professional or
23 professional entity to engage in the further dispensing of the
24 antidote to recipients, unless such authority has been granted by
25 law, as provided by subparagraph (b) of this paragraph.

26 (b) Notwithstanding the provisions of this paragraph to the
27 contrary, if the law expressly authorizes or requires a certain type of
28 professional, professional entity, emergency medical responder, or
29 emergency medical response entity to administer or dispense opioid
30 antidotes pursuant to a standing order issued hereunder, the
31 standing order issued pursuant to this section shall be deemed to
32 grant the authority specified by the law, even if such authority is not
33 expressly indicated on the face of the standing order.

34 ~~[(4)]~~ (5) Any prescriber or other health care practitioner who
35 prescribes ~~[or]~~ , dispenses , or otherwise supplies, an opioid
36 antidote in good faith, and in accordance with the provisions of this
37 subsection, shall not, as a result of the practitioner's acts or
38 omissions, be subject to any criminal or civil liability, or any
39 professional disciplinary action under Title 45 of the Revised
40 Statutes , for prescribing ~~[or]~~ , dispensing , or otherwise supplying,
41 an opioid antidote in accordance with P.L.2013, c.46 (C.24:6J-1 et
42 seq.).

43 b. (1) Any professional or professional entity that has obtained
44 a standing order, pursuant to subsection a. of this section, for the
45 dispensing of opioid antidotes, may dispense or otherwise supply an
46 opioid antidote to any recipient who is deemed by the professional

1 or professional entity to be capable of administering the opioid
2 antidote to an overdose victim in an emergency.

3 (2) Any professional or professional entity that dispenses or
4 otherwise supplies an opioid antidote in accordance with paragraph
5 (1) of this subsection, in good faith, and pursuant to a standing
6 order issued under subsection a. of this section, shall not, as a result
7 of any acts or omissions, be subject to any criminal or civil
8 liability , or any professional disciplinary action , for dispensing or
9 otherwise supplying an opioid antidote in accordance with
10 P.L.2013, c.46 (C.24:6J-1 et seq.).

11 c. (1) Any emergency medical responder or emergency medical
12 response entity that has obtained a standing order, pursuant to
13 subsection a. of this section, for the administration of opioid
14 antidotes, may administer an opioid antidote to overdose victims.

15 (2) Any emergency medical responder or emergency medical
16 response entity that administers an opioid antidote, in good faith, in
17 accordance with paragraph (1) of this subsection, and pursuant to a
18 standing order issued under subsection a. of this section, shall not,
19 as a result of any acts or omissions, be subject to any criminal or
20 civil liability, or any professional disciplinary action, for
21 administering the opioid antidote in accordance with P.L.2013, c.46
22 (C.24:6J-1 et seq.)

23 d. (1) Any person who is the recipient of an opioid antidote,
24 which has been prescribed **[or]** , dispensed , or otherwise supplied,
25 thereto for administration purposes pursuant to subsection a. or b. of
26 this section, and who has received overdose prevention information
27 pursuant to section 5 of P.L.2013, c.46 (C.24:6J-5), may administer
28 the opioid antidote to another person in an emergency, without fee,
29 if the antidote recipient believes, in good faith, that the other person
30 is experiencing an opioid overdose.

31 (2) Any person who administers an opioid antidote pursuant to
32 paragraph (1) of this subsection shall not, as a result of the person's
33 acts or omissions, be subject to any criminal or civil liability , or
34 any professional disciplinary action, for administering the opioid
35 antidote in accordance with P.L.2013, c.46 (C.24:6J-1 et seq.).

36 e. In addition to the immunity that is provided by this section
37 for authorized persons who are engaged in the prescribing,
38 dispensing, or administering of an opioid antidote, the immunity
39 provided by section 7 or section 8 of P.L.2013, c.46 (C.2C:35-30 or
40 C.2C:35-31) shall apply to a person who acts in accordance with
41 this section, provided that the requirements of those sections, as
42 applicable, have been met.

43 (cf: P.L.2015, c.10, s.2)]¹

44

45 ¹[4.]2.¹ This act shall take effect immediately.