

[Second Reprint]

**SENATE, No. 2082**

**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

INTRODUCED JUNE 18, 2012

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**Gordon, Lesniak, Scutari and Turner**

**SYNOPSIS**

“Overdose Prevention Act.”

**CURRENT VERSION OF TEXT**

As amended on April 29, 2013 by the Senate pursuant to the Governor's recommendations.

(Sponsorship Updated As Of: 4/30/2013)

1 AN ACT concerning opioid antidotes and overdose prevention, and  
2 supplementing Title 24 of the Revised Statutes <sup>2</sup>and Title 2C of  
3 the New Jersey Statutes<sup>2</sup>.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. This act shall be known and may be cited as the <sup>2</sup>[“Opioid  
9 Antidote and Overdose” “Overdose”<sup>2</sup> Prevention Act.”

10  
11 2. <sup>2</sup>[The Legislature finds and declares that naloxone is an  
12 inexpensive and easily administered antidote to an opioid overdose.  
13 Encouraging the wider prescription and distribution of naloxone or  
14 similarly acting drugs to those at risk for an opioid overdose, or to  
15 members of their families or peers, would reduce the number of  
16 opioid overdose deaths and be in the best interests of the citizens of  
17 this State] The Legislature finds and declares that encouraging  
18 witnesses and victims of drug overdoses to seek medical assistance  
19 saves lives and is in the best interests of the citizens of this State  
20 and, in instances where evidence was obtained as a result of seeking  
21 of medical assistance, these witnesses and victims should be  
22 protected from arrest, charge, prosecution, conviction, and  
23 revocation of parole or probation for possession or use of illegal  
24 drugs. Additionally, naloxone is an inexpensive and easily  
25 administered antidote to an opioid overdose. Encouraging the wider  
26 prescription and distribution of naloxone or similarly acting drugs  
27 to those at risk for an opioid overdose, or to members of their  
28 families or peers, would reduce the number of opioid overdose  
29 deaths and be in the best interests of the citizens of this State. It is  
30 not the intent of the Legislature to protect individuals from arrest,  
31 prosecution or conviction for other criminal offenses, including  
32 engaging in drug trafficking, nor is it the intent of the Legislature to  
33 in any way modify or restrict the current duty and authority of law  
34 enforcement and emergency responders at the scene of a medical  
35 emergency or a crime scene, including the authority to investigate  
36 and secure the scene<sup>2</sup>.

37  
38 3. As used in this act:

39 “Commissioner” means the Commissioner of <sup>1</sup>[Health and  
40 Senior] Human<sup>1</sup> Services.

41 <sup>2</sup>“Drug overdose” means an acute condition including, but not  
42 limited to, physical illness, coma, mania, hysteria, or death resulting

**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:**

<sup>1</sup>Senate SHH committee amendments adopted January 14, 2013.

<sup>2</sup>Senate amendments adopted in accordance with Governor's recommendations April 29, 2013.

1 from the consumption or use of a controlled dangerous substance or  
2 another substance with which a controlled dangerous substance was  
3 combined and that a layperson would reasonably believe to require  
4 medical assistance.

5 “Medical assistance” means professional medical services that  
6 are provided to a person experiencing a drug overdose by a health  
7 care professional, acting within the scope of his or her lawful  
8 practice, including professional medical services that are mobilized  
9 through telephone contact with the 911 telephone emergency  
10 service.<sup>2</sup>

11 “Opioid antidote” means naloxone hydrochloride or any other  
12 similarly acting drug approved by the United States Food and Drug  
13 Administration for the treatment of an opioid overdose.

14 “Health care professional” means a physician, physician  
15 assistant, advanced practice nurse, or other individual who is  
16 licensed or whose professional practice is otherwise regulated  
17 pursuant to Title 45 of the Revised Statutes, <sup>2</sup>other than a  
18 pharmacist,<sup>2</sup> and who, based upon the accepted scope of  
19 professional authority, prescribes or dispenses an opioid <sup>2</sup>**[antitode]**  
20 antidote<sup>2</sup>.

21 “Patient” includes a person who is not at risk of an opioid  
22 overdose but who, in the judgment of a physician, may be in a  
23 position to assist another individual during an overdose and who  
24 has received patient overdose information as required by section 5  
25 of this act on the indications for and administration of an opioid  
26 antidote.

27  
28 4. a. A health care professional <sup>2</sup>or pharmacist<sup>2</sup> who, acting in  
29 good faith, directly or through a standing order, prescribes or  
30 dispenses an opioid antidote to a patient capable, in the judgment of  
31 the health care professional, of administering the opioid antidote in  
32 an emergency, shall not, as a result of the professional’s acts or  
33 omissions, be subject to any criminal or civil liability, or any  
34 professional disciplinary action under Title 45 of the Revised  
35 Statutes <sup>2</sup>for prescribing or dispensing an opioid antidote in  
36 accordance with this act<sup>2</sup>.

37 b. A person, other than a health care professional, may in an  
38 emergency administer, without fee, an opioid antidote, if the person  
39 has received patient overdose information pursuant to section 5 of  
40 this act and believes in good faith that another person is  
41 experiencing an opioid overdose. The person shall not, as a result  
42 of the person’s acts or omissions, be subject to any criminal or civil  
43 <sup>2</sup>**[liability, including any prosecution for the unlawful possession or**  
44 **administering of a controlled dangerous substance, or disciplinary**  
45 **action under Title 45 of the Revised Statutes for the unlawful**  
46 **practice of medicine]** liability for administering an opioid antidote  
47 in accordance with this act. In addition, the immunity provided for

1 in section 7 or section 8 of P.L. , c. (C. ) (pending before the  
2 Legislature as this bill) also shall apply to a person acting pursuant  
3 to this section, provided that the requirements of section 7 or  
4 section 8 also have been met<sup>2</sup>.

5  
6 5. a. A health care professional prescribing or dispensing an  
7 opioid antidote to a patient shall ensure that the patient receives  
8 patient overdose information. This information shall include, but is  
9 not limited to: opioid overdose prevention and recognition; how to  
10 perform rescue breathing and resuscitation; opioid antidote dosage  
11 and administration; the importance of calling 911 emergency  
12 telephone service for assistance with an opioid overdose; and care  
13 for an overdose victim after administration of the opioid antidote.

14 b. In order to fulfill the distribution of patient overdose  
15 information required by subsection a. of this section, the  
16 information may be provided by the health care professional, or a  
17 community-based organization, substance abuse organization, or  
18 other organization which addresses medical or social issues related  
19 to drug addiction that the health care professional maintains a  
20 written agreement with, and that includes: procedures for providing  
21 patient overdose information; information as to how employees or  
22 volunteers providing the information will be trained; and standards  
23 for documenting the provision of patient overdose information to  
24 patients.

25 c. The provision of patient overdose information shall be  
26 documented in the patient's medical record by a health care  
27 professional, or through similar means as determined by any written  
28 agreement between a health care professional and an organization  
29 as set forth in subsection b. of this section.

30 d. The Commissioner of <sup>1</sup>['Health and Senior] Human<sup>1</sup>  
31 Services, in consultation with Statewide organizations representing  
32 physicians, advanced practice nurses, or physician assistants, or  
33 community-based programs, substance abuse programs, syringe  
34 access programs, or other programs which address medical or social  
35 issues related to drug addiction, may develop and disseminate <sup>1</sup>['  
36 accordance with promulgated regulations,']<sup>1</sup> training materials in  
37 video, electronic, or other formats to health care professionals or  
38 organizations operating community-based programs, substance  
39 abuse programs, syringe access programs, or other programs which  
40 address medical or social issues related to drug addiction, to  
41 facilitate the provision of patient overdose information.

42  
43 6. a. The Commissioner of <sup>1</sup>['Health and Senior] Human<sup>1</sup>  
44 Services may award grants, based upon any monies appropriated by  
45 the Legislature, to create or support local opioid overdose  
46 prevention, recognition, and response projects. County and  
47 municipal health departments, correctional institutions, hospitals,

1 and universities, as well as organizations operating community-  
2 based programs, substance abuse programs, syringe access  
3 programs, or other programs which address medical or social issues  
4 related to drug addiction may apply to the Department of <sup>1</sup>['Health  
5 and Senior] Human<sup>1</sup> Services for a grant under this section, on  
6 forms and in the manner prescribed by the commissioner.

7 b. In awarding any grant, the commissioner shall consider the  
8 necessity for overdose prevention projects in various health care  
9 facility and non-health care facility settings, and the applicant's  
10 ability to develop interventions that will be effective and viable in  
11 the local area to be served by the grant.

12 c. In awarding any grant, the commissioner shall give  
13 preference to applications that include one or more of the following  
14 elements:

15 (1) prescription and distribution of naloxone hydrochloride or  
16 any other similarly acting drug approved by the United States Food  
17 and Drug Administration for the treatment of an opioid overdose;

18 (2) policies and projects to encourage persons, including drug  
19 users, to call 911 for emergency assistance when they witness a  
20 potentially fatal opioid overdose;

21 (3) opioid overdose prevention, recognition, and response  
22 education projects in syringe access programs, drug treatment  
23 centers, outreach programs, and other programs operated by  
24 organizations that work with, or have access to, opioid users and  
25 their families and communities;

26 (4) opioid overdose recognition and response training, including  
27 rescue breathing, in drug treatment centers and for other  
28 organizations that work with, or have access to, opioid users and  
29 their families and communities;

30 (5) the production and distribution of targeted or mass media  
31 materials on opioid overdose prevention and response;

32 (6) the institution of education and training projects on opioid  
33 overdose response and treatment for emergency services and law  
34 enforcement personnel; and

35 (7) a system of parent, family, and survivor education and  
36 mutual support groups.

37 d. In addition to any moneys appropriated by the Legislature,  
38 the commissioner may seek money from the federal government,  
39 private foundations, and any other source to fund the grants  
40 established pursuant to this section, as well as to fund on-going  
41 monitoring and evaluation of the programs supported by the grants.  
42

43 7. <sup>2</sup>['This act shall take effect on the first day of the second  
44 month next following enactment, except that the Commissioner of  
45 <sup>1</sup>['Health and Senior] Human<sup>1</sup> Services shall take any anticipatory  
46 action in advance thereof as shall be necessary for the  
47 implementation of the act.] a. A person who, in good faith, seeks

1 medical assistance for someone experiencing a drug overdose shall  
2 not be:

3 (1) arrested, charged, prosecuted, or convicted for obtaining,  
4 possessing, using, being under the influence of, or failing to make  
5 lawful disposition of, a controlled dangerous substance or controlled  
6 substance analog pursuant to subsection a., b., or c. of N.J.S.2C:35-  
7 10;

8 (2) arrested, charged, prosecuted, or convicted for inhaling the  
9 fumes of or possessing any toxic chemical pursuant to subsection b.  
10 of section 7 of P.L.1999, c.90 (C.2C:35-10.4);

11 (3) arrested, charged, prosecuted, or convicted for using,  
12 obtaining, attempting to obtain, or possessing any prescription  
13 legend drug or stramonium preparation pursuant to subsection b., d.,  
14 or e. of section 8 of P.L.1999, c.90 (C.2C:35-10.5);

15 (4) arrested, charged, prosecuted, or convicted for acquiring or  
16 obtaining possession of a controlled dangerous substance or  
17 controlled substance analog by fraud pursuant to N.J.S.2C:35-13;

18 (5) arrested, charged, prosecuted, or convicted for unlawfully  
19 possessing a controlled dangerous substance that was lawfully  
20 prescribed or dispensed pursuant to N.J.S.2C:35-24;

21 (6) arrested, charged, prosecuted, or convicted for using or  
22 possessing with intent to use drug paraphernalia pursuant to  
23 N.J.S.2C:36-2 or for having under his control or possessing a  
24 hypodermic syringe, hypodermic needle, or any other instrument  
25 adapted for the use of a controlled dangerous substance or a  
26 controlled substance analog pursuant to subsection a. of  
27 N.J.S.2C:36-6;

28 (7) subject to revocation of parole or probation based only upon  
29 a violation of offenses described in subsection a. (1) through (6) of  
30 this section, provided, however, this circumstance may be  
31 considered in establishing or modifying the conditions of parole or  
32 probation supervision.

33 b. The provisions of subsection a. of this section shall only  
34 apply if:

35 (1) the person seeks medical assistance for another person who  
36 is experiencing a drug overdose and is in need of medical  
37 assistance; and

38 (2) the evidence for an arrest, charge, prosecution, conviction,  
39 or revocation was obtained as a result of the seeking of medical  
40 assistance.

41 c. Nothing in this section shall be construed to limit the  
42 admissibility of any evidence in connection with the investigation  
43 or prosecution of a crime with regard to a defendant who does not  
44 qualify for the protections of this act or with regard to other crimes  
45 committed by a person who otherwise qualifies for protection  
46 pursuant to this act. Nothing in this section shall be construed to  
47 limit any seizure of evidence or contraband otherwise permitted by  
48 law. Nothing herein shall be construed to limit or abridge the

1 authority of a law enforcement officer to detain or take into custody  
2 a person in the course of an investigation or to effectuate an arrest  
3 for any offense except as provided in subsection a. of this section.  
4 Nothing in this section shall be construed to limit, modify or  
5 remove any immunity from liability currently available to public  
6 entities or public employees by law.<sup>2</sup>

7  
8 <sup>2</sup>8. a. A person who experiences a drug overdose and who seeks  
9 medical assistance or is the subject of a good faith request for  
10 medical assistance pursuant to section 4 of this act shall not be:

11 (1) arrested, charged, prosecuted, or convicted for obtaining,  
12 possessing, using, being under the influence of, or failing to make  
13 lawful disposition of, a controlled dangerous substance or controlled  
14 substance analog pursuant to subsection a., b., or c. of N.J.S.2C:35-  
15 10;

16 (2) arrested, charged, prosecuted, or convicted for inhaling the  
17 fumes of or possessing any toxic chemical pursuant to subsection b.  
18 of section 7 of P.L.1999, c.90 (C.2C:35-10.4);

19 (3) arrested, charged, prosecuted, or convicted for using,  
20 obtaining, attempting to obtain, or possessing any prescription  
21 legend drug or stramonium preparation pursuant to subsection b., d.,  
22 or e. of section 8 of P.L.1999, c.90 (C.2C:35-10.5);

23 (4) arrested, charged, prosecuted, or convicted for acquiring or  
24 obtaining possession of a controlled dangerous substance or  
25 controlled substance analog by fraud pursuant to N.J.S.2C:35-13;

26 (5) arrested, charged, prosecuted, or convicted for unlawfully  
27 possessing a controlled dangerous substance that was lawfully  
28 prescribed or dispensed pursuant to N.J.S.2C:35-24;

29 (6) arrested, charged, prosecuted, or convicted for using or  
30 possessing with intent to use drug paraphernalia pursuant to  
31 N.J.S.2C:36-2 or for having under his control or possessing a  
32 hypodermic syringe, hypodermic needle, or any other instrument  
33 adapted for the use of a controlled dangerous substance or a  
34 controlled substance analog pursuant to subsection a. of  
35 N.J.S.2C:36-6;

36 (7) subject to revocation of parole or probation based only upon  
37 a violation of offenses described in subsection a. (1) through (6) of  
38 this section, provided, however, that this circumstance may be  
39 considered in establishing or modifying the conditions of parole or  
40 probation supervision

41 b. The provisions of subsection a. of this section shall only  
42 apply if the evidence for an arrest, charge, prosecution, conviction  
43 or revocation was obtained as a result of the seeking of medical  
44 assistance.

45 c. Nothing in this section shall be construed to limit the  
46 admissibility of any evidence in connection with the investigation  
47 or prosecution of a crime with regard to a defendant who does not  
48 qualify for the protections of this act or with regard to other crimes

1 committed by a person who otherwise qualifies for protection  
2 pursuant to this act. Nothing in this section shall be construed to  
3 limit any seizure of evidence or contraband otherwise permitted by  
4 law. Nothing herein shall be construed to limit or abridge the  
5 authority of a law enforcement officer to detain or take into custody  
6 a person in the course of an investigation or to effectuate an arrest  
7 for any offense except as provided in subsection a. of this section.  
8 Nothing in this section shall be construed to limit, modify or  
9 remove any immunity from liability currently available to public  
10 entities or public employees by law.<sup>2</sup>

11

12 <sup>2</sup>9. Sections 1 through 6 of this act shall take effect on the first  
13 day of the second month next following enactment, except that the  
14 Commissioner of Human Services shall take any anticipatory action  
15 in advance thereof as shall be necessary for the implementation of  
16 the act and sections 7 and 8 shall take effect immediately.<sup>2</sup>