

[First Reprint]

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STATE OF NEW JERSEY
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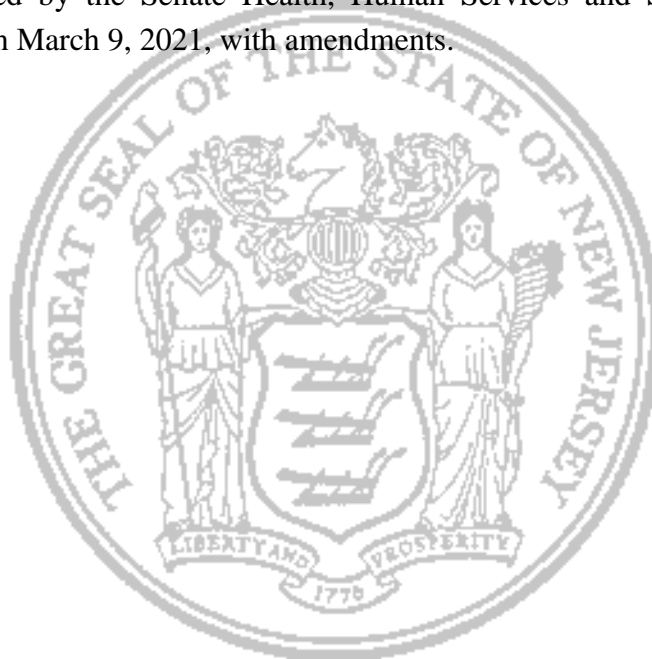
Senators Diegnan and Gopal

SYNOPSIS

Expands ability of any person to acquire opioid antidotes and to furnish or administer them to others.

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee on March 9, 2021, with amendments.



(Sponsorship Updated As Of: 4/19/2021)

1 AN ACT concerning opioid antidotes ¹**[and]** ¹,¹ supplementing Title
2 24 of the Revised Statutes ¹, amending various parts of the
3 statutory law,¹ and repealing ¹sections 1 through 6 of¹ P.L.2013,
4 c.46 (C.24:6J-1 ¹**[et seq.]** through C.24:6J-6¹).

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

8
9 1. (New section) As used in this section:

10 a. "Opioid antidote" means any drug, regardless of dosage
11 amount or method of administration, which has been approved by
12 the United States Food and Drug Administration (FDA) for the
13 treatment of an opioid overdose. "Opioid antidote" includes, but is
14 not limited to, naloxone hydrochloride, in any dosage amount,
15 which is administered through nasal spray or any other FDA-
16 approved means or methods.

17 "Opioid overdose" means an acute condition including, but not
18 limited to, extreme physical illness, decreased level of
19 consciousness, respiratory depression, coma, or death resulting
20 from the consumption or use of an opioid drug or another substance
21 with which an opioid drug was combined, and that a layperson
22 would reasonably believe to require medical assistance.

23 b. (1) ¹**[Within 90 days of the effective date of this act, any]**
24 Any¹ person in this State may ¹**[dispense an opioid antidote to a**
25 **person who is located in this State]** acquire an opioid antidote from
26 a licensed pharmacist or other health care professional authorized
27 pursuant to Title 45 of the Revised Statutes to prescribe and
28 dispense prescription drugs¹ .

29 (2) ¹Any individual who is in possession of an opioid antidote
30 may furnish the opioid antidote to any other person located in this
31 State. In the case of a pharmacist, the opioid antidote shall not be
32 dispensed by the pharmacist except upon a prescription for the
33 opioid antidote or pursuant to a standing order issued under the
34 provisions of section 1 of P.L.2017, c.88 (C.45:14-67.2). In the
35 case of a health care professional who is authorized pursuant to
36 Title 45 of the Revised Statutes to prescribe and dispense
37 prescription drugs, the opioid antidote shall not be dispensed by the
38 health care professional except upon a prescription issued by the
39 health care professional.

40 (3)¹ Any person in this State may administer an opioid antidote
41 to ¹**[a recipient who is located in this State if]** any individual who¹
42 the person believes, in good faith, ¹**[that the recipient]**¹ is
43 experiencing an opioid overdose. ¹The provisions of this paragraph
44 shall apply regardless of whether the person administering the

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:

¹Senate SHH committee amendments adopted March 9, 2021.

1 opioid antidote is doing so in a professional capacity as a licensed
2 health care professional or first responder.¹

3 ¹~~[(3)]~~ c.¹ Within 90 days ¹~~[of]~~ after¹ the ¹~~[effective]~~¹ date of
4 enactment of¹ this act, the Department of ¹~~[Health]~~ Human
5 Services¹ shall publish on its Internet website guidelines for the
6 dispensation of opioid antidotes that are dispensed pursuant to the
7 provisions of this section.

8 ¹~~[c.]~~ d.¹ Any person who ¹prescribes, dispenses, furnishes, or¹
9 administers ¹~~[or dispenses]~~¹ an opioid antidote in good faith, and
10 in accordance with the provisions of this section, shall not, as a
11 result of the person's acts or omissions, be subject to any criminal or
12 civil liability or any professional disciplinary action under Title 45
13 of the Revised Statutes for such administering or dispensing.

14

15 ¹2. Section 8 of P.L.2013, c.46 (C.2C:35-31) is amended to read
16 as follows:

17 8. a. A person who experiences a drug overdose and who seeks
18 medical assistance or is the subject of a good faith request for
19 medical assistance ~~[pursuant to section 4 of this act]~~ in connection
20 with a drug overdose or a suspected drug overdose shall not be:

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

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

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

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

36 (5) arrested, charged, prosecuted, or convicted for unlawfully
37 possessing a controlled dangerous substance that was lawfully
38 prescribed or dispensed pursuant to P.L.1998, c.90 (C.2C:35-24);

39 (6) arrested, charged, prosecuted, or convicted for using or
40 possessing with intent to use drug paraphernalia pursuant to
41 N.J.S.2C:36-2 or for having under his control or possessing a
42 hypodermic syringe, hypodermic needle, or any other instrument
43 adapted for the use of a controlled dangerous substance or a
44 controlled substance analog pursuant to subsection a. of
45 N.J.S.2C:36-6;

46 (7) subject to revocation of parole or probation based only upon
47 a violation of offenses described in subsection a. (1) through (6) of

1 this section, provided, however, that this circumstance may be
2 considered in establishing or modifying the conditions of parole or
3 probation supervision.

4 b. The provisions of subsection a. of this section shall only
5 apply if the evidence for an arrest, charge, prosecution, conviction
6 or revocation was obtained as a result of the seeking of medical
7 assistance.

8 c. Nothing in this section shall be construed to limit the
9 admissibility of any evidence in connection with the investigation
10 or prosecution of a crime with regard to a defendant who does not
11 qualify for the protections of this act or with regard to other crimes
12 committed by a person who otherwise qualifies for protection
13 pursuant to this act. Nothing in this section shall be construed to
14 limit any seizure of evidence or contraband otherwise permitted by
15 law. Nothing herein shall be construed to limit or abridge the
16 authority of a law enforcement officer to detain or take into custody
17 a person in the course of an investigation or to effectuate an arrest
18 for any offense except as provided in subsection a. of this section.
19 Nothing in this section shall be construed to limit, modify or
20 remove any immunity from liability currently available to public
21 entities or public employees by law.¹

22 (cf: P.L.2013, c.46, s.8)

23

24 ¹3. Section 2 of P.L.2018, c.106 (C.18A:40-12.24) is amended
25 to read as follows:

26 2. a. Each board of education, board of trustees of a charter
27 school, and chief school administrator of a nonpublic school shall
28 develop a policy, in accordance with guidelines established by the
29 Department of Education pursuant to section 3 of this act, for the
30 emergency administration of an opioid antidote to a student, staff
31 member, or other person who is experiencing an opioid overdose.
32 The policy shall:

33 (1) require each school that includes any of the grades nine
34 through 12, and permit any other school, to obtain **【a standing order
35 for】** opioid antidotes pursuant to section **【4 of the "Overdose
36 Prevention Act," P.L.2013, c.46 (C.24:6J-4)】** section 1 of P.L. , c.
37 (C.) (pending before the Legislature as this bill), and to
38 maintain a supply of opioid antidotes under the standing order in a
39 secure but unlocked and easily accessible location; and

40 (2) permit the school nurse, or a trained employee designated
41 pursuant to subsection c. of this section, to administer an opioid
42 antidote to any person whom the nurse or trained employee in good
43 faith believes is experiencing an opioid overdose.

44 b. (1) Opioid antidotes shall be maintained by a school
45 pursuant to paragraph (1) of subsection a. of this section in
46 quantities and types deemed adequate by the board of education,
47 board of trustees of a charter school, or chief school administrator

1 of a nonpublic school, in consultation with the Department of
2 Education and the Department of Human Services.

3 (2) The opioid antidotes shall be accessible in the school during
4 regular school hours and during school-sponsored functions that
5 take place in the school or on school grounds adjacent to the school
6 building. A board of education, board of trustees of a charter
7 school, or chief school administrator of a nonpublic school may, in
8 its discretion, make opioid antidotes accessible during school-
9 sponsored functions that take place off school grounds.

10 c. (1) The school nurse shall have the primary responsibility
11 for the emergency administration of an opioid antidote in
12 accordance with a policy developed under this section. The board
13 of education, board of trustees of a charter school, or chief school
14 administrator of a nonpublic school shall designate additional
15 employees of the school district, charter school, or nonpublic school
16 who volunteer to administer an opioid antidote in the event that a
17 person experiences an opioid overdose when the nurse is not
18 physically present at the scene. The designated employees shall
19 only be authorized to administer opioid antidotes after receiving the
20 training required under subsection b. of section 3 of this act.

21 (2) In the event that a licensed athletic trainer volunteers to
22 administer an opioid antidote pursuant to this act, it shall not
23 constitute a violation of the "Athletic Training Licensure Act,"
24 P.L.1984, c.203 (C.45:9-37.35 et seq.).

25 d. A policy developed pursuant to this section shall require the
26 transportation of an overdose victim to a hospital emergency room
27 by emergency services personnel after the administration of an
28 opioid antidote, even if the person's symptoms appear to have
29 resolved.¹

30 (cf: P.L.2018, c.106, s.2)

31

32 ¹4. Section 3 of P.L.2018, c.106 (C.18A:40-12.25) is amended
33 to read as follows:

34 3. a. The Department of Education, in consultation with the
35 Department of Human Services and appropriate medical experts,
36 shall establish guidelines for the development of a policy by a
37 school district, charter school, or nonpublic school for the
38 emergency administration of opioid antidotes. Each board of
39 education, board of trustees of a charter school, and chief school
40 administrator of a nonpublic school shall implement the guidelines
41 in developing a policy pursuant to section 2 of this act.

42 b. The guidelines shall include a requirement that each school
43 nurse, and each employee designated pursuant to subsection c. of
44 section 2 of this act, receive training on standardized protocols for
45 the administration of an opioid antidote to a person who
46 experiences an opioid overdose. **【**The training shall include the
47 overdose prevention information described in subsection a. of

1 section 5 of the "Overdose Prevention Act," P.L.2013, c.46
2 (C.24:6J-5).】 The guidelines shall specify an appropriate entity or
3 entities to provide the training, and a school nurse shall not be
4 solely responsible to train the employees designated pursuant to
5 subsection c. of section 2 of this act.¹
6 (cf: P.L.2018, c.106, s.3)

7
8 ^{15.} Section 4 of P.L.2006, c.99 (C.26:5C-28) is amended to read
9 as follows:

10 4. a. In accordance with the provisions of section 3 of
11 P.L.2006, c.99 (C.26:5C-27), a municipality may establish or
12 authorize establishment of a sterile syringe access program that is
13 approved by the commissioner to provide for the exchange of
14 hypodermic syringes and needles.

15 (1) A municipality that establishes a sterile syringe access
16 program, at a fixed location or through a mobile access component,
17 may operate the program directly or contract with one or more of
18 the following entities to operate the program: a hospital or other
19 health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-
20 1 et seq.), a federally qualified health center, a public health agency,
21 a substance abuse treatment program, an AIDS service organization,
22 or another nonprofit entity designated by the municipality. These
23 entities shall also be authorized to contract directly with the
24 commissioner in any municipality in which the governing body has
25 authorized the operation of sterile syringe access programs by
26 ordinance pursuant to paragraph (2) of this subsection. The
27 municipality or entity under contract shall implement the sterile
28 syringe access program in consultation with a federally qualified
29 health center and the New Jersey Office on Minority and
30 Multicultural Health in the Department of Health, and in a
31 culturally competent manner.

32 (2) Pursuant to paragraph (2) of subsection a. of section 3 of
33 P.L.2006, c.99 (C.26:5C-27), a municipality whose governing body
34 has authorized the operation of sterile syringe access programs
35 within the municipality may require within the authorizing
36 ordinance that an entity as described in paragraph (1) of this
37 subsection obtain approval from the municipality, in a manner
38 prescribed by the authorizing ordinance, to operate a sterile syringe
39 access program prior to obtaining approval from the commissioner
40 to operate such a program, or may permit the entity to obtain
41 approval to operate such a program by application directly to the
42 commissioner without obtaining prior approval from the
43 municipality.

44 (3) Two or more municipalities may jointly establish or
45 authorize establishment of a sterile syringe access program that
46 operates within those municipalities pursuant to adoption of an

1 ordinance by each participating municipality pursuant to this
2 section.

3 b. A sterile syringe access program shall comply with the
4 following requirements:

5 (1) Sterile syringes and needles shall be provided at no cost to
6 consumers 18 years of age and older;

7 (2) Program staff shall be trained and regularly supervised in:
8 harm reduction; substance use disorder, medical and social service
9 referrals; and infection control procedures, including universal
10 precautions and needle stick injury protocol; and programs shall
11 maintain records of staff and volunteer training and of hepatitis C
12 and tuberculosis screening provided to volunteers and staff;

13 (3) The program shall offer information about HIV, hepatitis C
14 and other bloodborne pathogens and prevention materials at no cost
15 to consumers, and shall seek to educate all consumers about safe
16 and proper disposal of needles and syringes;

17 (4) The program shall provide information and referrals to
18 consumers, including HIV testing options, access to medication-
19 assisted substance use disorder treatment programs and other
20 substance use disorder treatment programs, and available health and
21 social service options relevant to the consumer's needs. The
22 program shall encourage consumers to receive an HIV test, and
23 shall, when appropriate, develop an individualized substance use
24 disorder treatment plan for each participating consumer;

25 (5) The program shall screen out consumers under 18 years of
26 age from access to syringes and needles, and shall refer them to
27 substance use disorder treatment and other appropriate programs for
28 youth;

29 (6) The program shall develop a plan for the handling and
30 disposal of used syringes and needles in accordance with
31 requirements set forth at N.J.A.C.7:26-3A.1 et seq. for regulated
32 medical waste disposal pursuant to the "Comprehensive Regulated
33 Medical Waste Management Act," P.L.1989, c.34 (C.13:1E-
34 48.1 et al.), and shall also develop and maintain protocols for post-
35 exposure treatment;

36 (7) (a) The program may **【**obtain a standing order, pursuant to
37 the "Overdose Prevention Act," P.L.2013, c.46 (C.24:6J-1 et seq.),
38 **authorizing】** authorize program staff to carry and **【**dispense
39 furnish naloxone hydrochloride or another opioid antidote to
40 consumers and to the family members and friends **【**thereof**】** of
41 consumers;

42 (b) **【**The program shall provide overdose prevention information
43 to consumers, the family members and friends thereof, and other
44 persons associated therewith, as appropriate, in accordance with the
45 provisions of section 5 of the "Overdose Prevention Act," P.L.2013,
46 c.46 (C.24:6J-5)**】** (deleted by amendment, P.L. , c.) (pending
47 before the Legislature as this bill);

1 (8) The program shall maintain the confidentiality of consumers
2 by the use of confidential identifiers, which shall consist of the first
3 two letters of the first name of the consumer's mother and the two-
4 digit day of birth and two-digit year of birth of the consumer, or by
5 the use of such other uniform Statewide mechanism as may be
6 approved by the commissioner for this purpose;

7 (9) The program shall provide a uniform identification card that
8 has been approved by the commissioner to consumers and to staff
9 and volunteers involved in transporting, exchanging or possessing
10 syringes and needles, or shall provide for such other uniform
11 Statewide means of identification as may be approved by the
12 commissioner for this purpose;

13 (10) The program shall provide consumers at the time of
14 enrollment with a schedule of program operation hours and
15 locations, in addition to information about prevention and harm
16 reduction and substance use disorder treatment services; and

17 (11) The program shall establish and implement accurate data
18 collection methods and procedures as required by the commissioner
19 for the purpose of evaluating the sterile syringe access programs,
20 including the monitoring and evaluation on a quarterly basis of:

21 (a) sterile syringe access program participation rates, including
22 the number of consumers who enter substance use disorder
23 treatment programs and the status of their treatment;

24 (b) the effectiveness of the sterile syringe access programs in
25 meeting their objectives, including, but not limited to, return rates
26 of syringes and needles distributed to consumers and the impact of
27 the sterile syringe access programs on intravenous drug use; and

28 (c) the number and type of referrals provided by the sterile
29 syringe access programs and the specific actions taken by the sterile
30 syringe access programs on behalf of each consumer.

31 c. A municipality may terminate a sterile syringe access
32 program established or authorized pursuant to this act, which is
33 operating within that municipality, if its governing body approves
34 such an action by ordinance, in which case the municipality shall
35 notify the commissioner of its action in a manner prescribed by
36 regulation of the commissioner.¹

37 (cf: P.L.2017, c.131, s.104)

38

39 ¹6. Section 1 of P.L.2017, c.88 (C.45:14-67.2) is amended to
40 read as follows:

41 1. a. Notwithstanding any other law or regulation to the
42 contrary, a pharmacist may dispense an opioid antidote to any
43 patient, regardless of whether the patient holds an individual
44 prescription for the opioid antidote, pursuant to a standing order
45 issued by a prescriber or pursuant to the standing order issued
46 pursuant to subsection b. of this section. **[A pharmacist who**
47 **dispenses an opioid antidote pursuant to this section shall comply**

1 with the provisions of the "Overdose Prevention Act," P.L.2013,
2 c.46 (C.24:6J-1 et al.).¹】

3 b. The Commissioner of Health, or, if the commissioner is not
4 a duly licensed physician, the Deputy Commissioner for Public
5 Health Services, shall issue **【**, upon request by a pharmacist
6 licensed to practice in this State,¹】 a standing order authorizing **【the**
7 **pharmacist】** all licensed pharmacists in the State to dispense an
8 opioid antidote to any patient, regardless of whether the patient
9 holds an individual prescription for the opioid antidote **【**, provided
10 the pharmacist complies with the requirements of the "Overdose
11 Prevention Act," P.L.2013, c.46 (C.24:6J-1 et al.).¹】 .

12 c. As used in this section:

13 "Opioid antidote" means naloxone hydrochloride, or any other
14 similarly acting drug approved by the United States Food and Drug
15 Administration for self-administration for the treatment of an opioid
16 overdose.

17 "Patient" means the same as that term is defined in section 3 of
18 P.L.2013, c.46 (C.24:6J-3).

19 "Prescriber" means the same as that term is defined in section 3
20 of P.L.2013, c.46 (C.24:6J-3).¹
21 (cf: P.L.2017, c.88, s.1)

22
23 ¹**【2.】** 7. Sections 1 through 6 of¹ P.L.2013, c.46 (C.24:6J-1 ¹**【et**
24 **seq.】** through C.24:6J-6¹) ¹**【is】** are¹ repealed.

25
26 ¹**【3.】** 8.¹ This act shall take effect ¹**【immediately】** 90 days after
27 the date of enactment¹ .