

1 **OPIATE OVERDOSE RESPONSE ACT -- STANDING**
2 **ORDERS AND OTHER AMENDMENTS**

3 2016 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Steve Eliason**

6 Senate Sponsor: Evan J. Vickers

8 **LONG TITLE**

9 **General Description:**

10 This bill renames the Emergency Administration of Opiate Antagonist Act as the
11 Opiate Overdose Response Act, amends the act, and makes related amendments.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ renames the Emergency Administration of Opiate Antagonist Act as the Opiate
- 15 Overdose Response Act;
- 16 ▶ amends definitions;
- 17 ▶ authorizes the use of a standing prescription drug order issued by a physician to
- 18 dispense an opioid antagonist; and
- 19 ▶ makes technical and clarifying changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **26-55-101**, as enacted by Laws of Utah 2014, Chapter 130

27 **26-55-102**, as enacted by Laws of Utah 2014, Chapter 130



- 28 [26-55-104](#), as enacted by Laws of Utah 2014, Chapter 130
- 29 [58-17b-507](#), as enacted by Laws of Utah 2014, Chapter 130
- 30 [58-31b-703](#), as enacted by Laws of Utah 2014, Chapter 130
- 31 [58-67-702](#), as enacted by Laws of Utah 2014, Chapter 130
- 32 [58-68-702](#), as enacted by Laws of Utah 2014, Chapter 130
- 33 [58-70a-505](#), as enacted by Laws of Utah 2014, Chapter 130

34 ENACTS:

35 [26-55-105](#), Utah Code Annotated 1953



37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section [26-55-101](#) is amended to read:

39 **CHAPTER 55. OPIATE OVERDOSE RESPONSE ACT**

40 **[26-55-101](#). Title.**

41 This chapter is known as the "[~~Emergency Administration of~~] Opiate [~~Antagonist~~]
42 Overdose Response Act."

43 Section 2. Section [26-55-102](#) is amended to read:

44 **[26-55-102](#). Definitions.**

45 As used in this chapter:

46 (1) "Controlled substance" means the same as that term is defined in Title 58, Chapter
47 37, Utah Controlled Substances Act.

48 (2) "Dispense" means the same as that term is defined in Section [58-17b-102](#).

49 ~~(1)~~ (3) "Health care facility" means a hospital, a hospice inpatient residence, a
50 nursing facility, a dialysis treatment facility, an assisted living residence, an entity that provides
51 home- and community-based services, a hospice or home health care agency, or another facility
52 that provides or contracts to provide health care services, which facility is licensed under
53 Chapter 21, Health Care Facility Licensing and Inspection Act.

54 ~~(2)~~ (4) "Health care provider" means:

- 55 (a) a physician₂, as defined in Section [58-67-102](#);
- 56 (b) an advanced practice registered nurse₂, as defined in Subsection [58-31b-102](#)(13); or
- 57 (c) a physician assistant₂, as defined in Section [58-70a-102](#).

58 (5) "Increased risk" means risk exceeding the risk typically experienced by an

59 individual who is not using, and is not likely to use, an opiate.

60 [~~(3)~~] (6) "Opiate" [is] means the same as that term is defined in Section 58-37-2.

61 [~~(4)~~] (7) "Opiate antagonist" means naloxone hydrochloride or any similarly acting
62 drug that is not a controlled substance and that is approved by the federal Food and Drug
63 Administration for the ~~the~~ diagnosis or ~~treatment of~~ [a] an opiate-related drug overdose.

64 [~~(5)~~] (8) "Opiate-related drug overdose event" means an acute condition, including a
65 decreased level of consciousness or respiratory depression resulting from the consumption or
66 use of a controlled substance, or another substance with which a controlled substance was
67 combined, and that a person would reasonably believe to require medical assistance.

68 (9) "Prescribe" means the same as that term is defined in Section 58-17b-102.

69 Section 3. Section **26-55-104** is amended to read:

70 **26-55-104. Prescribing, dispensing, and administering an opiate antagonist --**

71 **Immunity from liability.**

72 (1) (a) Except as provided in Subsection (1)(b), a person other than a health care
73 facility or health care provider ~~who~~ that ~~acts~~ in good faith to administer an opiate
73a antagonist to

74 ~~another person~~ an individual whom the person believes to be ~~suffering~~ experiencing an
75 opiate-related drug overdose event is not liable for any civil damages ~~he~~ or ~~for~~ acts
75a or omissions made
76 as a result of administering the opiate antagonist.

77 (b) A health care provider:

78 (i) does not have immunity from liability under Subsection (1)(a) when the health care
79 provider is acting within the scope of the health care provider's responsibilities or duty of care;
80 and

81 (ii) does have immunity from liability under Subsection (1)(a) if the health care
82 provider is under no legal duty to respond and otherwise complies with Subsection (1)(a).

83 (2) Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502, a health care
84 provider who is licensed to prescribe ~~or dispense~~ an opiate antagonist may ~~without a~~
85 ~~prescriber-patient relationship,~~ prescribe, including by a standing prescription drug order
86 issued in accordance with Subsection 26-55-105(2), or dispense an opiate antagonist ~~without~~
87 ~~liability for any civil damages or acts or omissions made as a result of prescribing or dispensing~~
88 ~~an opiate antagonist in good faith, to~~]:

89 (a) (i) to an individual who is at increased risk of experiencing ~~or who is likely to~~

90 experience] an opiate-related drug overdose event; or

91 ~~(b)~~ (ii) to a family member of, friend of, or other ~~[person]~~ individual who ~~is~~ ~~may be~~

91a ~~is~~ ~~in~~ in a

92 position to assist an individual who ~~may be~~ ~~is~~ at increased risk of experiencing ~~[or who is~~

93 ~~likely to experience]~~ an opiate-related drug overdose event~~[-];~~

94 (b) without a prescriber-patient relationship; and

95 (c) without liability for any civil damages ~~is~~ ~~for~~ ~~for~~ ~~acts or omissions made as a~~

95a ~~result of~~

96 ~~prescribing or dispensing the opiate antagonist in good faith.~~

97 (3) A ~~[person]~~ health care provider who ~~[prescribes or]~~ dispenses an opiate antagonist

98 ~~to an individual under Subsection (2)(a)~~ ~~is~~ ~~or (2)(b)]~~ ~~shall provide education to the~~

98a individual

99 ~~[described in Subsection (2)(a) or (b)] that includes [instructions to take the person who~~

100 ~~received] instruction:~~

101 (a) ~~on the proper administration of the opiate antagonist; and~~

102 (b) ~~that the individual to whom the opiate antagonist is dispensed should ensure that~~

103 ~~the individual to whom the opiate antagonist is administered is taken to an emergency care~~

104 ~~facility for a medical evaluation immediately following administration of the opiate antagonist.~~

105 Section 4. Section **26-55-105** is enacted to read:

106 **26-55-105. Standing prescription drug orders for an opiate antagonist.**

107 (1) Notwithstanding Title 58, Chapter 17b, Pharmacy Practice Act, a person licensed

108 under Title 58, Chapter 17b, Pharmacy Practice Act, to dispense an opiate antagonist may

109 dispense the opiate antagonist:

110 (a) pursuant to a standing prescription drug order made in accordance with Subsection

111 (2); and

112 (b) without any other prescription drug order from a person licensed to prescribe an

113 opiate antagonist.

114 (2) A physician who is licensed to prescribe an opiate antagonist ~~is~~ , including a

114a physician acting in the physician's capacity as an employee of the department, or a medical

114b director of a local health department, as defined in Section 26A-1-102, ~~is~~ may issue a standing

115 prescription drug order authorizing the dispensing of the opiate antagonist under Subsection (1)

116 in accordance with a protocol that:

117 (a) limits dispensing of the opiate antagonist to:

118 (i) an individual who is at increased risk of experiencing an opiate-related drug

119 overdose event; or

120 (ii) a family member of, friend of, or other individual who ~~is~~ ~~may be~~ ~~is~~ ~~in a~~

120a position to

121 assist an individual who is at increased risk of experiencing an opiate-related drug overdose
 122 event;

123 (b) requires the physician to specify the persons, by professional license number,
 124 authorized to dispense the opiate antagonist;

125 (c) requires the physician to review at least annually the dispensing practices of those
 126 authorized by the physician to dispense the opiate antagonist;

127 (d) requires those authorized by the physician to dispense the opiate antagonist to make
 128 and retain a record of each individual to whom the opiate antagonist is dispensed, which shall
 129 include:

130 (i) the name of the individual;

131 (ii) the drug dispensed; and

132 (iii) other relevant information; and

133 (e) is approved by the Division of Occupational and Professional Licensing within the
 134 Department of Commerce by administrative rule made in accordance with Title 63G, Chapter
 135 3, Utah Administrative Rulemaking Act.

136 Section 5. Section **58-17b-507** is amended to read:

137 **58-17b-507. Opiate antagonist -- Immunity from liability -- Exclusion from**
 138 **unlawful or unprofessional conduct.**

139 (1) As used in this section:

140 (a) "Opiate antagonist" means the same as that term is defined in Section [26-55-102](#).

141 (b) "Opiate-related drug overdose event" means the same as that term is defined in
 142 Section [26-55-102](#).

143 (2) A person licensed under this chapter ~~who~~ **that** ~~dispenses~~ an opiate

143a antagonist ~~[as defined~~

144 ~~in Section [26-55-102](#)]~~ to an individual with a prescription for an opiate antagonist, or pursuant

145 ~~to a standing prescription drug order issued in accordance with Subsection [26-55-105\(2\)](#),~~ is not

146 liable for any civil damages resulting from the outcomes that result from the eventual

147 administration of the opiate antagonist to ~~[a person]~~ an individual who another ~~[person]~~

148 individual believes is ~~[suffering]~~ experiencing an opiate-related drug overdose ~~[as defined in~~

149 ~~Section [26-55-102](#)]~~ event.

150 ~~[(2)]~~ (3) The provisions of this section and Title 26, Chapter 55, Opiate Overdose

151 Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or

152 administration of an opiate antagonist.

153 ~~[(3)]~~ (4) It is not unprofessional conduct or unlawful conduct for a licensee under this
154 chapter to dispense an opiate antagonist to ~~[a person]~~ an individual on behalf of another
155 ~~[person]~~ individual if the ~~[person]~~ individual obtaining the opiate antagonist has a prescription
156 for the opiate antagonist from a licensed prescriber or the opiate antagonist is dispensed
157 pursuant to a standing prescription drug order issued in accordance with Subsection
158 26-55-105(2).

159 Section 6. Section **58-31b-703** is amended to read:

160 **58-31b-703. Opiate antagonist -- Exclusion from unprofessional or unlawful**
161 **conduct.**

162 ~~[(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies~~
163 ~~to a licensee under this chapter.]~~

164 (1) As used in this section:

165 (a) "Dispensing" means the same as that term is defined in Section 58-17b-102.

166 (b) "Increased risk" means the same as that term is defined in Section 26-55-102.

167 (c) "Opiate antagonist" means the same as that term is defined in Section 26-55-102.

168 (d) "Opiate-related drug overdose event" means the same as that term is defined in
169 Section 26-155-102.

170 (e) "Prescribing" means the same as that term is defined in Section 58-17b-102.

171 (2) The prescribing or dispensing of an opiate antagonist ~~[as defined in Section~~
172 ~~26-55-102]~~ by a licensee under this chapter is not unprofessional or unlawful conduct if the
173 licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

174 (a) ~~[a person]~~ an individual who is at increased risk of experiencing ~~[or who is likely to~~
175 ~~experience]~~ an opiate-related drug overdose event ~~[as defined in Section 26-55-102];~~ or

176 (b) a family member of, friend of, or other ~~[person]~~ individual who is in a position to
177 assist ~~[a person]~~ an individual who ~~[may be]~~ is at increased risk of experiencing ~~[or who is~~
178 ~~likely to experience]~~ an opiate-related drug overdose event.

179 (3) The provisions of this section and Title 26, Chapter 55, ~~[Emergency Administration~~
180 ~~of] Opiate [Antagonist] Overdose Response Act, do not establish a duty or standard of care in~~
181 ~~the prescribing, dispensing, or administration of an opiate antagonist.~~

182 Section 7. Section **58-67-702** is amended to read:

183 **58-67-702. Opiate antagonist -- Exclusion from unlawful or unprofessional**
184 **conduct.**

185 ~~[(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies~~
186 ~~to a licensee under this chapter.]~~

187 (1) As used in this section:

188 (a) "Dispensing" means the same as that term is defined in Section [58-17b-102](#).

189 (b) "Increased risk" means the same as that term is defined in Section [26-55-102](#).

190 (c) "Opiate antagonist" means the same as that term is defined in Section [26-55-102](#).

191 (d) "Opiate-related drug overdose event" means the same as that term is defined in
192 Section [26-55-102](#).

193 (e) "Prescribing" means the same as that term is defined in Section [58-17b-102](#).

194 (2) The prescribing or dispensing of an opiate antagonist [~~as defined in Section~~
195 ~~[26-55-102](#)]~~ by a licensee under this chapter is not unprofessional or unlawful conduct if the
196 licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

197 (a) [~~a person~~] an individual who is at increased risk of experiencing [~~or who is likely to~~
198 ~~experience~~] an opiate-related drug overdose event [~~as defined in Section [26-55-102](#)]~~; or

199 (b) a family member of, friend of, or other [~~person~~] individual who is in a position to
200 assist [~~a person~~] an individual who [~~may be~~] is at increased risk of experiencing [~~or who is~~
201 ~~likely to experience~~] an opiate-related drug overdose event.

202 (3) The provisions of this section and Title 26, Chapter 55, [~~Emergency Administration~~
203 ~~of~~] Opiate [~~Antagonist~~] Overdose Response Act, do not establish a duty or standard of care in
204 the prescribing, dispensing, or administration of an opiate antagonist.

205 Section 8. Section **58-68-702** is amended to read:

206 **58-68-702. Opiate antagonist -- Exclusion from unlawful or unprofessional**
207 **conduct.**

208 ~~[(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies~~
209 ~~to a licensee under this chapter.]~~

210 (1) As used in this section:

211 (a) "Dispensing" means the same as that term is defined in Section [58-17b-102](#).

212 (b) "Increased risk" means the same as that term is defined in Section [26-55-102](#).

213 (c) "Opiate antagonist" means the same as that term is defined in Section [26-55-102](#).

214 (d) "Opiate-related drug overdose event" means the same as that term is defined in
215 Section 26-55-102.

216 (e) "Prescribing" means the same as that term is defined in Section 58-17b-102.

217 (2) The prescribing or dispensing of an opiate antagonist [~~as defined in Section~~
218 ~~26-55-102~~] by a licensee under this chapter is not unprofessional or unlawful conduct if the
219 licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

220 (a) [~~a person~~] an individual who is at increased risk of experiencing [~~or who is likely to~~
221 ~~experience~~] an opiate-related drug overdose event [~~as defined in Section 26-55-102~~]; or

222 (b) a family member of, friend of, or other [~~person~~] individual who is in a position to
223 assist [~~a person~~] an individual who [~~may be~~] is at increased risk of experiencing [~~or who is~~
224 ~~likely to experience~~] an opiate-related drug overdose event.

225 (3) The provisions of this section and Title 26, Chapter 55, [~~Emergency Administration~~
226 ~~of~~] Opiate [~~Antagonist~~] Overdose Response Act, do not establish a duty or standard of care in
227 the prescribing, dispensing, or administration of an opiate antagonist.

228 Section 9. Section **58-70a-505** is amended to read:

229 **58-70a-505. Opiate antagonist -- Exclusion from unlawful or unprofessional**
230 **conduct.**

231 [~~(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies~~
232 ~~to a licensee under this chapter.~~]

233 (1) As used in this section:

234 (a) "Dispensing" means the same as that term is defined in Section 58-17b-102.

235 (b) "Increased risk" means the same as that term is defined in Section 26-55-102.

236 (c) "Opiate antagonist" means the same as that term is defined in Section 26-55-102.

237 (d) "Opiate-related drug overdose event" means the same as that term is defined in
238 Section 26-55-102.

239 (e) "Prescribing" means the same as that term is defined in Section 58-17b-102.

240 (2) The prescribing or dispensing of an opiate antagonist [~~as defined in Section~~
241 ~~26-55-102~~] by a licensee under this chapter is not unprofessional or unlawful conduct if the
242 licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

243 (a) [~~a person~~] an individual who is at increased risk of experiencing [~~or who is likely to~~
244 ~~experience~~] an opiate-related drug overdose event [~~as defined in Section 26-55-102~~]; or

245 (b) a family member of, friend of, or other ~~[person]~~ individual who is in a position to
246 assist ~~[a person]~~ an individual who ~~[may be]~~ is at increased risk of experiencing ~~[or who is~~
247 ~~likely to experience]~~ an opiate-related drug overdose event.

248 (3) The provisions of this section and Title 26, Chapter 55, ~~[Emergency Administration~~
249 ~~of]~~ Opiate ~~[Antagonist]~~ Overdose Response Act, do not establish a duty or standard of care in
250 the prescribing, dispensing, or administration of an opiate antagonist.

Legislative Review Note
Office of Legislative Research and General Counsel