

Representative Mike K. McKell proposes the following substitute bill:

OPIATE OVERDOSE RESPONSE ACT -- PILOT PROGRAM

AND OTHER AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike K. McKell

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ renames the Emergency Administration of Opiate Antagonist Act as the Opiate Overdose Response Act;
- ▶ amends definitions;
- ▶ amends liability provisions;
- ▶ creates the Opiate Overdose Outreach Pilot Program within the Department of Health;
- ▶ authorizes grants from the program;
- ▶ specifies how grants may be used;
- ▶ requires annual reporting by grantees;
- ▶ requires rulemaking by the Department of Health;
- ▶ requires annual reporting on the program by the Department of Health;
- ▶ designates program funding as nonlapsing; and



26 ▶ makes technical changes.

27 **Money Appropriated in this Bill:**

28 This bill appropriates:

29 ▶ to Department of Health -- Disease Control and Prevention, as an ongoing

30 appropriation:

31 • from the General Fund, \$500,000, for the newly created Opiate Overdose

32 Outreach Pilot Program; and

33 ▶ to Department of Health -- Disease Control and Prevention, as a one-time

34 appropriation:

35 • from the General Fund, \$500,000, for the newly created Opiate Overdose

36 Outreach Pilot Program.

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 AMENDS:

41 **26-55-101**, as enacted by Laws of Utah 2014, Chapter 130

42 **26-55-102**, as enacted by Laws of Utah 2014, Chapter 130

43 **26-55-104**, as enacted by Laws of Utah 2014, Chapter 130

44 **58-17b-507**, as enacted by Laws of Utah 2014, Chapter 130

45 **58-31b-703**, as enacted by Laws of Utah 2014, Chapter 130

46 **58-67-702**, as enacted by Laws of Utah 2014, Chapter 130

47 **58-68-702**, as enacted by Laws of Utah 2014, Chapter 130

48 **58-70a-505**, as enacted by Laws of Utah 2014, Chapter 130

49 **63J-1-602.1**, as last amended by Laws of Utah 2015, Chapters 136 and 180

50 ENACTS:

51 **26-55-105**, Utah Code Annotated 1953



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

54 Section 1. Section **26-55-101** is amended to read:

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

56 **26-55-101. Title.**

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

59 Section 2. Section **26-55-102** is amended to read:

60 **26-55-102. Definitions.**

61 As used in this chapter:

62 (1) "Controlled substance" means the same as that term is defined in Title 58, Chapter
63 37, Utah Controlled Substances Act.

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

65 ~~[(1)]~~ (3) "Health care facility" means a hospital, a hospice inpatient residence, a
66 nursing facility, a dialysis treatment facility, an assisted living residence, an entity that provides
67 home- and community-based services, a hospice or home health care agency, or another facility
68 that provides or contracts to provide health care services, which facility is licensed under
69 Chapter 21, Health Care Facility Licensing and Inspection Act.

70 ~~[(2)]~~ (4) "Health care provider" means:

71 (a) a physician, as defined in Section 58-67-102;

72 (b) an advanced practice registered nurse, as defined in Subsection 58-31b-102(13); or

73 (c) a physician assistant, as defined in Section 58-70a-102.

74 (5) "Increased risk" means risk exceeding the risk typically experienced by an
75 individual who is not using, and is not likely to use, an opiate.

76 ~~[(3)]~~ (6) "Opiate" ~~[is]~~ means the same as that term is defined in Section 58-37-2.

77 ~~[(4)]~~ (7) "Opiate antagonist" means naloxone hydrochloride or any similarly acting
78 drug that is not a controlled substance and that is approved by the federal Food and Drug
79 Administration for the treatment of a drug overdose.

80 ~~[(5)]~~ (8) "Opiate-related drug overdose event" means an acute condition, including a
81 decreased level of consciousness or respiratory depression resulting from the consumption or
82 use of a controlled substance, or another substance with which a controlled substance was
83 combined, and that a person would reasonably believe to require medical assistance.

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

85 (10) "School" means:

86 (a) a public school:

87 (i) for elementary or secondary education, including a charter school; or

- 88 (ii) or other purposes;
- 89 (b) a private school:
- 90 (i) for elementary or secondary education; or
- 91 (ii) accredited for other purposes, including higher education or specialty training; or
- 92 (c) an institution within the state system of higher education, as described in Section
- 93 53B-1-102.

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

95 **26-55-104. Prescribing, dispensing, and administering an opiate antagonist --**
96 **Immunity from liability.**

97 (1) (a) (i) For purposes of Subsection (1)(a)(ii), "a person other than a health care
98 facility or health care provider" includes the following, regardless of whether the person has
99 received funds from the department through the Opiate Overdose Outreach Pilot Program
100 created in Section 26-55-105:

- 101 (A) a person described in Subsections 26-55-105(1)(a)(i) through (1)(a)(v); or
- 102 (B) an organization defined by department rule made under Subsection
- 103 26-55-105(7)(e) that may be in a position to assist an individual who is at increased risk of
104 experiencing an opiate-related drug overdose event.

105 (ii) Except as provided in Subsection (1)(b), a person other than a health care facility or
106 health care provider who acts in good faith to administer an opiate antagonist to [another
107 person] an individual whom the person believes to be [suffering] experiencing an opiate-related
108 drug overdose event is not liable for any civil damages [or] for acts or omissions made as a
109 result of administering the opiate antagonist.

110 (b) A health care provider:

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

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

116 (2) Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502, a health care
117 provider who is licensed to prescribe [~~or dispense~~] an opiate antagonist may[~~, without a~~
118 ~~prescriber-patient relationship,~~] prescribe or dispense an opiate antagonist [~~without liability for~~

119 any civil damages or acts or omissions made as a result of prescribing or dispensing an opiate
 120 antagonist in good faith, to]:

121 (a) (i) to an individual who is at increased risk of experiencing [or who is likely to
 122 experience] an opiate-related drug overdose event; or

123 [(b)] (ii) to a family member of, friend of, or other person, including a person described
 124 in Subsections 26-55-105(1)(a)(i) through (1)(a)(vi), who [may be] is in a position to assist an
 125 individual who may be at increased risk of experiencing [or who is likely to experience] an
 126 opiate-related drug overdose event[-];

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

128 (c) without liability for any civil damages for acts or omissions made as a result of
 129 prescribing or dispensing the opiate antagonist in good faith.

130 (3) A ~~[person]~~ health care provider who ~~[prescribes or]~~ dispenses an opiate antagonist
 131 to an individual under Subsection (2)(a) shall provide education to the individual ~~[described in~~
 132 ~~Subsection (2)(a) or (b)]~~ that includes ~~[instructions to take the person who received]~~
 133 instruction:

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

135 (b) that the individual to whom the opiate antagonist is dispensed should ensure that
 136 the individual to whom the opiate antagonist is administered is taken to an emergency care
 137 facility for a medical evaluation immediately following administration of the opiate antagonist.

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

139 **26-55-105. Opiate Overdose Outreach Pilot Program -- Grants -- Annual**
 140 **reporting by grantees -- Rulemaking -- Annual reporting by department.**

141 (1) For purposes of this section, "persons who may be in a position to assist an
 142 individual who is at increased risk of experiencing an opiate-related drug overdose event":

143 (a) means the following organizations:

144 (i) a law enforcement agency;

145 (ii) an organization that provides drug or alcohol treatment services;

146 (iii) an organization that provides services to the homeless;

147 (iv) a school;

148 (v) an organization that provides training on the proper administration of an opiate
 149 antagonist in response to an opiate-related drug overdose event; or

150 (vi) except as provided in Subsection (1)(b), any other organization, as defined by
151 department rule made under Subsection (7)(e), that may be in a position to assist an individual
152 who is at increased risk of experiencing an opiate-related drug overdose event; and

153 (b) does not mean:

154 (i) a person licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

155 (ii) a health care facility; or

156 (iii) an individual.

157 (2) There is created within the department the "Opiate Overdose Outreach Pilot
158 Program."

159 (3) No later than September 1, 2016, and with available funding, the department shall
160 grant funds through the program to persons who may be in a position to assist an individual
161 who is at increased risk of experiencing an opiate-related drug overdose event.

162 (4) Funds granted by the program:

163 (a) may be used by a grantee to:

164 (i) pay for the purchase by the grantee of an opiate antagonist; or

165 (ii) pay for the grantee's cost of providing training on the proper administration of an
166 opiate antagonist in response to an opiate-related drug overdose event; and

167 (b) may not be used:

168 (i) to pay for costs associated with the storage or dispensing of an opiate antagonist; or

169 (ii) for any other purposes.

170 (5) Grantees shall report annually to the department on the use of granted funds in
171 accordance with department rules made under Subsection (7)(d).

172 (6) The department may not use funds appropriated to it for the program to pay for
173 costs associated with administering the program.

174 (7) No later than July 1, 2016, the department shall, in accordance with Title 63G,
175 Chapter 3, Utah Administrative Rulemaking Act, make rules specifying:

176 (a) how to apply for a grant from the program;

177 (b) the criteria used by the department to determine whether a grant request is
178 approved, including criteria providing that:

179 (i) grants are awarded to areas of the state, including rural areas, that would benefit
180 most from the grant; and

181 (ii) no more than 15% of the total amount granted by the program is used to pay for
 182 grantees' costs of providing training on the proper administration of an opiate antagonist in
 183 response to an opiate-related drug overdose event;

184 (c) the criteria used by the department to determine the amount of a grant;

185 (d) the information a grantee shall report annually to the department under Subsection
 186 (4), including:

187 (i) the amount of opiate antagonist purchased and dispensed by the grantee during the
 188 reporting period;

189 (ii) the number of lives known to have been saved during the reporting period as a
 190 result of opiate antagonist dispensed by the grantee; and

191 (iii) the manner in which the grantee shall record, preserve, and make available for
 192 audit by the department the information described in Subsections (7)(d)(i) through (7)(d)(iii);
 193 and

194 (e) as required by Subsection (1)(a)(vi), any other organization that may be in a
 195 position to assist an individual who is at increased risk of experiencing an opiate-related drug
 196 overdose event.

197 (8) The department shall report to the Legislature's Social Services Appropriations
 198 Subcommittee no later than September 1 of each year on the outcomes of the Opiate Overdose
 199 Outreach Pilot Program.

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

201 **58-17b-507. Opiate antagonist -- Immunity from liability -- Exclusion from**
 202 **unlawful or unprofessional conduct.**

203 (1) As used in this section:

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

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

207 ~~[(1)]~~ (2) A person licensed under this chapter who dispenses an opiate antagonist [~~as~~
 208 ~~defined in Section [26-55-102](#)]~~ to an individual with a prescription for an opiate antagonist is
 209 not liable for any civil damages resulting from the outcomes that result from the eventual
 210 administration of the opiate antagonist to [~~a person~~] an individual who another [~~person~~]
 211 individual believes is [~~suffering~~] experiencing an opiate-related drug overdose [~~as defined in~~

212 Section ~~26-55-102~~] event.

213 [~~(2)~~] (3) The provisions of this section and Title 26, Chapter 55, Opiate Overdose
214 Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or
215 administration of an opiate antagonist.

216 [~~(3)~~] (4) It is not unprofessional conduct or unlawful conduct for a licensee under this
217 chapter to dispense an opiate antagonist to a person, including a person described in
218 Subsections 26-55-105(1)(a)(i) through (1)(a)(vi), on behalf of [~~another person~~] an individual if
219 the person obtaining the opiate antagonist has a prescription for the opiate antagonist from a
220 licensed prescriber.

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

222 **58-31b-703. Opiate antagonist -- Exclusion from unprofessional or unlawful**
223 **conduct.**

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

226 (1) As used in this section:

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

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

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

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

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

233 (2) The prescribing or dispensing of an opiate antagonist [~~as defined in Section~~
234 ~~26-55-102~~] by a licensee under this chapter is not unprofessional or unlawful conduct if the
235 licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

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

238 (b) a family member of, friend of, or other person, including a person described in
239 Subsections 26-55-105(1)(a)(i) through (1)(a)(vi), who is in a position to assist [~~a person~~] an
240 individual who [~~may be~~] is at increased risk of experiencing [~~or who is likely to experience~~] an
241 opiate-related drug overdose event.

242 (3) The provisions of this section and Title 26, Chapter 55, [~~Emergency Administration~~

243 of] Opiate [~~Antagonist~~] Overdose Response Act, do not establish a duty or standard of care in
 244 the prescribing, dispensing, or administration of an opiate antagonist.

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

246 **58-67-702. Opiate antagonist -- Exclusion from unlawful or unprofessional**
 247 **conduct.**

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

250 (1) As used in this section:

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

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

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

254 (d) "Opiate-related drug overdose event" means the same as that term is defined in

255 Section 26-55-102.

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

257 (2) The prescribing or dispensing of an opiate antagonist [~~as defined in Section~~
 258 26-55-102] by a licensee under this chapter is not unprofessional or unlawful conduct if the
 259 licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

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

262 (b) a family member of, friend of, or other person, including a person described in
 263 Subsections 26-55-105(1)(a)(i) through (1)(a)(vi), who is in a position to assist [~~a person~~] an
 264 individual who [~~may be~~] is at increased risk of experiencing [~~or who is likely to experience~~] an
 265 opiate-related drug overdose event.

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

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

270 **58-68-702. Opiate antagonist -- Exclusion from unlawful or unprofessional**
 271 **conduct.**

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

274 (1) As used in this section:

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

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

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

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

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

281 (2) The prescribing or dispensing of an opiate antagonist [~~as defined in Section~~
282 [26-55-102](#)] by a licensee under this chapter is not unprofessional or unlawful conduct if the
283 licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

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

286 (b) a family member of, friend of, or other person, including a person described in
287 Subsections [26-55-105\(1\)\(a\)\(i\)](#) through [\(1\)\(a\)\(vi\)](#), who is in a position to assist [~~a person~~] an
288 individual who [~~maybe~~] is at increased risk of experiencing [~~or who is likely to experience~~] an
289 opiate-related drug overdose event.

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

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

294 **58-70a-505. Opiate antagonist -- Exclusion from unlawful or unprofessional**
295 **conduct.**

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

298 (1) As used in this section:

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

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

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

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

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

305 (2) The prescribing or dispensing of an opiate antagonist [~~as defined in Section~~
306 ~~26-55-102~~] by a licensee under this chapter is not unprofessional or unlawful conduct if the
307 licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

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

310 (b) a family member of, friend of, or other person, including a person described in
311 Subsections 26-55-105(1)(a)(i) through (1)(a)(vi), who is in a position to assist [~~a person~~] an
312 individual who [~~may be~~] is at increased risk of experiencing [~~or who is likely to experience~~] an
313 opiate-related drug overdose event.

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

317 Section 10. Section **63J-1-602.1** is amended to read:

318 **63J-1-602.1. List of nonlapsing accounts and funds -- General authority and Title**
319 **1 through Title 30.**

320 (1) Appropriations made to the Legislature and its committees.

321 (2) The Percent-for-Art Program created in Section ~~9-6-404~~.

322 (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in
323 Section ~~9-18-102~~.

324 (4) The LeRay McAllister Critical Land Conservation Program created in Section
325 ~~11-38-301~~.

326 (5) An appropriation made to the Division of Wildlife Resources for the appraisal and
327 purchase of lands under the Pelican Management Act, as provided in Section ~~23-21a-6~~.

328 (6) Award money under the State Asset Forfeiture Grant Program, as provided under
329 Section ~~24-4-117~~.

330 (7) Funds collected from the program fund for local health department expenses
331 incurred in responding to a local health emergency under Section ~~26-1-38~~.

332 (8) Funds collected from the emergency medical services grant program, as provided in
333 Section ~~26-8a-207~~.

334 (9) The Prostate Cancer Support Restricted Account created in Section ~~26-21a-303~~.

335 (10) State funds appropriated for matching federal funds in the Children's Health

336 Insurance Program as provided in Section [26-40-108](#).

337 (11) The Utah Health Care Workforce Financial Assistance Program created in Section
338 [26-46-102](#).

339 (12) The primary care grant program created in Section [26-10b-102](#).

340 (13) The Rural Physician Loan Repayment Program created in Section [26-46a-103](#).

341 (14) The Opiate Overdose Outreach Pilot Program created in Section [26-55-105](#).

342 Section 11. **Appropriation.**

343 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for
344 the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money
345 are appropriated from resources not otherwise appropriated, or reduced from amounts
346 previously appropriated, out of the funds or amounts indicated. These sums of money are in
347 addition to amounts previously appropriated for fiscal year 2017.

348 Item 1. To Department of Health - Disease Control and Prevention

349 From General Fund \$500,000

350 Schedule of Programs:

351 Opiate Overdose Outreach Pilot Program \$500,000

352 Item 2. To Department of Health - Disease Control and Prevention

353 From General Fund, One-time \$500,000

354 Schedule of Programs:

355 Opiate Overdose Outreach Pilot Program \$500,000