

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: Curtis S. Bramble

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;
- ▶ specifies how money appropriated for the program may be used;
- ▶ authorizes the department to make grants through the program to persons who may be in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event;
- ▶ specifies how grants may be used;
- ▶ requires annual reporting by grantees;



- 26 ▶ requires rulemaking by the Department of Health;
- 27 ▶ requires annual reporting on the program by the Department of Health;
- 28 ▶ designates program funding as nonlapsing; and
- 29 ▶ makes technical changes.

30 **Money Appropriated in this Bill:**

31 This bill appropriates:

- 32 ▶ to Department of Health -- Disease Control and Prevention, as an ongoing
- 33 appropriation:
- 34 • from the General Fund, \$500,000, for the newly created Opiate Overdose
- 35 Outreach Pilot Program; and
- 36 ▶ to Department of Health -- Disease Control and Prevention, as a one-time
- 37 appropriation:
- 38 • from the General Fund, \$500,000, for the newly created Opiate Overdose
- 39 Outreach Pilot Program.

40 **Other Special Clauses:**

41 None

42 **Utah Code Sections Affected:**

43 AMENDS:

- 44 **26-55-101**, as enacted by Laws of Utah 2014, Chapter 130
- 45 **26-55-102**, as enacted by Laws of Utah 2014, Chapter 130
- 46 **26-55-104**, as enacted by Laws of Utah 2014, Chapter 130
- 47 **58-17b-507**, as enacted by Laws of Utah 2014, Chapter 130
- 48 **58-31b-703**, as enacted by Laws of Utah 2014, Chapter 130
- 49 **58-67-702**, as enacted by Laws of Utah 2014, Chapter 130
- 50 **58-68-702**, as enacted by Laws of Utah 2014, Chapter 130
- 51 **58-70a-505**, as enacted by Laws of Utah 2014, Chapter 130
- 52 **63J-1-602.1**, as last amended by Laws of Utah 2015, Chapters 136 and 180

53 ENACTS:

54 **26-55-105**, Utah Code Annotated 1953



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

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

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

59 **26-55-101. Title.**

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

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

63 **26-55-102. Definitions.**

64 As used in this chapter:

65 (1) "Controlled substance" means the same as that term is defined in Title 58, Chapter
66 37, Utah Controlled Substances Act.

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

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

73 ~~[(2)]~~ (4) "Health care provider" means:

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

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

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

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

79 ~~[(3)]~~ (6) "Opiate" [~~is~~] means the same as that term is defined in Section 58-37-2.

80 ~~[(4)]~~ (7) "Opiate antagonist" means naloxone hydrochloride or any similarly acting
81 drug that is not a controlled substance and that is approved by the federal Food and Drug
82 Administration for the diagnosis or treatment of [a] an opiate-related drug overdose.

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

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

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

89 **26-55-104. Prescribing, dispensing, and administering an opiate antagonist --**
90 **Immunity from liability.**

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

95 (A) a person described in Subsections 26-55-105(1)(a)(i)(A) through (1)(a)(i)(F); or

96 (B) an organization defined by department rule made under Subsection
97 26-55-105(7)(e) that may be in a position to assist an individual who is at increased risk of
98 experiencing an opiate-related drug overdose event.

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

104 (b) A health care provider:

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

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

110 (2) Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502, a health care
111 provider who is licensed to prescribe [~~or dispense~~] an opiate antagonist may [~~without a~~
112 ~~prescriber-patient relationship,~~] prescribe or dispense an opiate antagonist [~~without liability for~~
113 ~~any civil damages or acts or omissions made as a result of prescribing or dispensing an opiate~~
114 ~~antagonist in good faith, to~~]:

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

117 [~~(b)~~] (ii) to a family member of, friend of, or other person, including a person described
118 in Subsections 26-55-105(1)(a)(i)(A) through (1)(a)(i)(F), who [~~may be~~] is in a position to

119 assist an individual who may be at increased risk of experiencing [~~or who is likely to~~
120 ~~experience~~] an opiate-related drug overdose event[-];

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

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

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

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

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

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

133 **26-55-105. Opiate Overdose Outreach Pilot Program -- Grants -- Annual**
134 **reporting by grantees -- Rulemaking -- Annual reporting by department.**

135 (1) As used in this section:

136 (a) "Persons who may be in a position to assist an individual who is at increased risk of
137 experiencing an opiate-related drug overdose event":

138 (i) means the following organizations:

139 (A) a law enforcement agency;

140 (B) the department or a local health department, as defined in Section [26A-1-102](#);

141 (C) an organization that provides drug or alcohol treatment services;

142 (D) an organization that provides services to the homeless;

143 (E) an organization that provides training on the proper administration of an opiate
144 antagonist in response to an opiate-related drug overdose event;

145 (F) a school; or

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

149 (ii) does not mean:

- 150 (A) a person licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 151 (B) a health care facility; or
- 152 (C) an individual.
- 153 (b) "School" means:
- 154 (i) a public school:
- 155 (A) for elementary or secondary education, including a charter school; or
- 156 (B) for other purposes;
- 157 (ii) a private school:
- 158 (A) for elementary or secondary education; or
- 159 (B) accredited for other purposes, including higher education or specialty training; or
- 160 (iii) an institution within the state system of higher education, as described in Section
- 161 [53B-1-102.](#)

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

164 (3) The department may use funds appropriated for the program to:

165 (a) provide grants under Subsection (4);

166 (b) promote public awareness of the signs, symptoms, and risks of opioid misuse and
167 overdose;

168 (c) increase the availability of educational materials and other resources designed to
169 assist individuals at increased risk of opioid overdose, their families, and others in a position to
170 help prevent or respond to an overdose event;

171 (d) increase public awareness of, access to, and use of opiate antagonist;

172 (e) update the department's Utah Clinical Guidelines on Prescribing Opioids and
173 promote its use by prescribers and dispensers of opioids;

174 (f) develop a directory of substance misuse treatment programs and promote its
175 dissemination to and use by opioid prescribers, dispensers, and others in a position to assist
176 individuals at increased risk of opioid overdose;

177 (g) coordinate a multi-agency coalition to address opioid misuse and overdose; and

178 (h) maintain department data collection efforts designed to guide the development of
179 opioid overdose interventions and track their effectiveness.

180 (4) No later than September 1, 2016, and with available funding, the department shall

181 grant funds through the program to persons who may be in a position to assist an individual
182 who is at increased risk of experiencing an opiate-related drug overdose event.

183 (5) Funds granted by the program:

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

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

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

188 (b) may not be used:

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

190 (ii) for any other purposes.

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

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

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

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

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

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

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

204 (d) the information a grantee shall report annually to the department under Subsection
205 (6), including:

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

208 (ii) the number of individuals to whom the opiate antagonist was dispensed by the
209 grantee;

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

212 (iv) the manner in which the grantee shall record, preserve, and make available for
213 audit by the department the information described in Subsections (7)(d)(i) through (7)(d)(iii);
214 and

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

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

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

222 **58-17b-507. Opiate antagonist -- Immunity from liability -- Exclusion from**
223 **unlawful or unprofessional conduct.**

224 (1) As used in this section:

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

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

228 ~~[(1)]~~ (2) A person licensed under this chapter who dispenses an opiate antagonist [~~as~~
229 ~~defined in Section [26-55-102](#)]~~ to an individual with a prescription for an opiate antagonist is
230 not liable for any civil damages resulting from the outcomes that result from the eventual
231 administration of the opiate antagonist to [~~a person~~] an individual who another [~~person~~]
232 individual believes is [~~suffering~~] experiencing an opiate-related drug overdose [~~as defined in~~
233 ~~Section [26-55-102](#)]~~ event.

234 ~~[(2)]~~ (3) The provisions of this section and Title 26, Chapter 55, Opiate Overdose
235 Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or
236 administration of an opiate antagonist.

237 ~~[(3)]~~ (4) It is not unprofessional conduct or unlawful conduct for a licensee under this
238 chapter to dispense an opiate antagonist to a person, including a person described in
239 Subsections [26-55-105](#)(1)(a)(i)(A) through (1)(a)(i)(F), on behalf of [~~another person~~] an
240 individual if the person obtaining the opiate antagonist has a prescription for the opiate
241 antagonist from a licensed prescriber.

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

243 **58-31b-703. Opiate antagonist -- Exclusion from unprofessional or unlawful**
244 **conduct.**

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

247 (1) As used in this section:

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

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

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

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

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

254 (2) The prescribing or dispensing of an opiate antagonist ~~[as defined in Section~~
255 ~~26-55-102]~~ by a licensee under this chapter is not unprofessional or unlawful conduct if the
256 licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

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

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

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

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

267 **58-67-702. Opiate antagonist -- Exclusion from unlawful or unprofessional**
268 **conduct.**

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

271 (1) As used in this section:

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

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

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

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

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

278 (2) The prescribing or dispensing of an opiate antagonist [~~as defined in Section~~
279 26-55-102] by a licensee under this chapter is not unprofessional or unlawful conduct if the
280 licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

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

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

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

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

291 **58-68-702. Opiate antagonist -- Exclusion from unlawful or unprofessional**
292 **conduct.**

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

295 (1) As used in this section:

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

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

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

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

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

302 (2) The prescribing or dispensing of an opiate antagonist [~~as defined in Section~~
303 26-55-102] by a licensee under this chapter is not unprofessional or unlawful conduct if the
304 licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

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

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

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

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

315 **58-70a-505. Opiate antagonist -- Exclusion from unlawful or unprofessional**
316 **conduct.**

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

319 (1) As used in this section:

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

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

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

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

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

326 (2) The prescribing or dispensing of an opiate antagonist ~~[as defined in Section~~
327 ~~26-55-102]~~ by a licensee under this chapter is not unprofessional or unlawful conduct if the
328 licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

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

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

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

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

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

339 **63J-1-602.1. List of nonlapsing accounts and funds -- General authority and Title**
340 **1 through Title 30.**

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

342 (2) The Percent-for-Art Program created in Section [9-6-404](#).

343 (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in
344 Section [9-18-102](#).

345 (4) The LeRay McAllister Critical Land Conservation Program created in Section
346 [11-38-301](#).

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

349 (6) Award money under the State Asset Forfeiture Grant Program, as provided under
350 Section [24-4-117](#).

351 (7) Funds collected from the program fund for local health department expenses
352 incurred in responding to a local health emergency under Section [26-1-38](#).

353 (8) Funds collected from the emergency medical services grant program, as provided in
354 Section [26-8a-207](#).

355 (9) The Prostate Cancer Support Restricted Account created in Section [26-21a-303](#).

356 (10) State funds appropriated for matching federal funds in the Children's Health
357 Insurance Program as provided in Section [26-40-108](#).

358 (11) The Utah Health Care Workforce Financial Assistance Program created in Section
359 [26-46-102](#).

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

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

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

363 Section 11. **Appropriation.**

364 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for
365 the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money
366 are appropriated from resources not otherwise appropriated, or reduced from amounts

367 previously appropriated, out of the funds or amounts indicated. These sums of money are in
368 addition to amounts previously appropriated for fiscal year 2017.

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

370 From General Fund \$500,000

371 Schedule of Programs:

372 Opiate Overdose Outreach Pilot Program \$500,000

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

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

375 Schedule of Programs:

376 Opiate Overdose Outreach Pilot Program \$500,000