

HB0192S02 compared with HB0192

~~deleted text~~ shows text that was in HB0192 but was deleted in HB0192S02.

inserted text shows text that was not in HB0192 but was inserted into HB0192S02.

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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

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Health;

- ▶ ~~{authorizes grants from the program}~~ 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;
- ▶ requires rulemaking by the Department of Health;
- ▶ requires annual reporting on the program by the Department of Health;
- ▶ designates program funding as nonlapsing; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

This bill appropriates:

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

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

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

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

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

ENACTS:

26-55-105, Utah Code Annotated 1953

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

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

CHAPTER 55. OPIATE OVERDOSE RESPONSE ACT

26-55-101. Title.

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

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

26-55-102. Definitions.

As used in this chapter:

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

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

~~(1)~~ ~~(2)~~ (3) "Health care facility" means a hospital, a hospice inpatient residence, a nursing facility, a dialysis treatment facility, an assisted living residence, an entity that provides home- and community-based services, a hospice or home health care agency, or another facility that provides or contracts to provide health care services, which facility is licensed under Chapter 21, Health Care Facility Licensing and Inspection Act.

~~(2)~~ ~~(3)~~ (4) "Health care provider" means:

- (a) a physician, as defined in Section 58-67-102;
- (b) an advanced practice registered nurse, as defined in Subsection 58-31b-102(13); or
- (c) a physician assistant, as defined in Section 58-70a-102.

~~(4)~~ ~~(5)~~ (5) "Increased risk" means risk exceeding the risk typically experienced by an individual who is not using, and is not likely to use, an opiate.

~~(3)~~ ~~(5)~~ (6) "Opiate" ~~[is]~~ means the same as that term is defined in Section 58-37-2.

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~~[(4)]~~ ~~(6)(7)~~ "Opiate antagonist"~~;~~

~~(a)~~ means naloxone hydrochloride or any similarly acting drug that is not a controlled substance and that is approved by the federal Food and Drug Administration for the diagnosis or treatment of [a] an opiate-related drug overdose~~{[.] event, and~~

~~(b) includes paraphernalia required to administer the drug.~~

~~[(5)]~~ ~~(7)~~;

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

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

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

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

Immunity from liability.

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

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

or

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

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

(b) A health care provider:

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

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and

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

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

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

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

(b) without a prescriber-patient relationship; and

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

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

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

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

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

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

(1) ~~{For purposes of}~~ As used in this section ~~{,}~~:

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

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(~~fa~~i) means the following organizations:

(~~fi~~A) a law enforcement agency;

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

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

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

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

(F) a school; or

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

(~~fb~~ii) does not mean:

(~~fi~~A) a person licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(~~fi~~B) a health care facility; or

(~~fi~~C) an individual.

(b) "School" means:

(i) a public school:

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

(B) for other purposes;

(ii) a private school:

(A) for elementary or secondary education; or

(B) accredited for other purposes, including higher education or specialty training; or

(iii) an institution within the state system of higher education, as described in Section 53B-1-102.

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

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

(a) provide grants under Subsection (4);

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

(c) increase the availability of educational materials and other resources designed to

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assist individuals at increased risk of opioid overdose, their families, and others in a position to help prevent or respond to an overdose event;

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

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

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

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

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

(~~3~~4) No later than September 1, 2016, and with available funding, the department shall grant funds 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.

(~~4~~5) Funds granted by the program:

(a) may be used by a grantee to:

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

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

(b) may not be used:

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

(ii) for any other purposes.

(~~5~~6) Grantees shall report annually to the department on the use of granted funds in accordance with department rules made under Subsection (7)(d).

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

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

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

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

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

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

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

(d) the information a grantee shall report annually to the department under Subsection ~~(4)6~~, including:

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

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

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

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

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

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

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

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

(1) As used in this section:

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

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

~~(1)~~ (2) A person licensed under this chapter who dispenses an opiate antagonist [as

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~~defined in Section 26-55-102]~~ to an individual with a prescription for an opiate antagonist is not liable for any civil damages resulting from the outcomes that result from the eventual administration of the opiate antagonist to ~~[a person]~~ an individual who another ~~[person]~~ individual believes is ~~[suffering]~~ experiencing an opiate-related drug overdose ~~[as defined in Section 26-55-102]~~ event.

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

(b) a family member of, friend of, or other person, including a person described in

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Subsections 26-55-105(1)(a)(i)(A) through (1)(a)(~~five~~)(F), who is in a position to assist [~~a person~~] an individual who [~~may be~~] is at increased risk of experiencing [~~or who is likely to experience~~] an opiate-related drug overdose event.

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

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

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

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

Section 11. **Appropriation.**

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

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

From General Fund \$500,000

Schedule of Programs:

Opiate Overdose Outreach Pilot Program \$500,000

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

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

Schedule of Programs:

Opiate Overdose Outreach Pilot Program \$500,000

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Legislative Review Note

Office of Legislative Research and General Counsel