

1 **OPIATE OVERDOSE RESPONSE ACT -- OVERDOSE**
2 **OUTREACH PROVIDERS AND OTHER AMENDMENTS**

3 2016 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Carol Spackman Moss**

6 Senate Sponsor: Brian E. Shiozawa

7
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 ▶ amends civil liability provisions;
- 18 ▶ authorizes an overdose outreach provider to furnish an opiate antagonist without
19 civil liability;
- 20 ▶ requires an overdose outreach provider to furnish instruction on how to recognize
21 and respond appropriately to an opiate-related drug overdose event;
- 22 ▶ exempts an overdose outreach provider from licensure under the Pharmacy Practice
23 Act;
- 24 ▶ specifies that the prescribing or dispensing of an opiate antagonist by a dentist is not
25 unprofessional or unlawful conduct; and
- 26 ▶ makes technical changes.

27 **Money Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **26-55-101**, as enacted by Laws of Utah 2014, Chapter 130

34 **26-55-102**, as enacted by Laws of Utah 2014, Chapter 130

35 **26-55-104**, as enacted by Laws of Utah 2014, Chapter 130

36 **58-17b-309**, as last amended by Laws of Utah 2015, Chapter 206

37 **58-17b-507**, as enacted by Laws of Utah 2014, Chapter 130

38 **58-31b-703**, as enacted by Laws of Utah 2014, Chapter 130

39 **58-67-702**, as enacted by Laws of Utah 2014, Chapter 130

40 **58-68-702**, as enacted by Laws of Utah 2014, Chapter 130

41 **58-70a-505**, as enacted by Laws of Utah 2014, Chapter 130

42 ENACTS:

43 **26-55-105**, Utah Code Annotated 1953

44 **58-69-702**, Utah Code Annotated 1953



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

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

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

49 **26-55-101. Title.**

50 This chapter is known as the "[~~Emergency Administration of~~] Opiate [~~Antagonist~~]

51 Overdose Response Act."

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

53 **26-55-102. Definitions.**

54 As used in this chapter:

55 (1) "Controlled substance" means the same as that term is defined in Title 58, Chapter

56 37, Utah Controlled Substances Act.

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

58 (3) "Division" means the Division of Occupational and Professional Licensing within

59 the Department of Commerce.

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

65 [~~(2)~~] (5) "Health care provider" means:

66 (a) a physician, as defined in Section [58-67-102](#);

67 (b) an advanced practice registered nurse, as defined in Subsection [58-31b-102](#)(13);

68 [~~or~~]

69 (c) a physician assistant, as defined in Section [58-70a-102](#); or

70 (d) an individual licensed to engage in the practice of dentistry, as defined in Section
71 [58-69-102](#).

72 (6) "Increased risk" means risk exceeding the risk typically experienced by an
73 individual who is not using, and is not likely to use, an opiate;

74 (7) "Local health department" means:

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

76 (b) a multicounty local health department, as defined in Section [26A-1-102](#).

77 [~~(3)~~] (8) "Opiate" [~~is~~] means the same as as that term is defined in Section [58-37-2](#).

78 [~~(4)~~] (9) "Opiate antagonist" means naloxone hydrochloride or any similarly acting
79 drug that is not a controlled substance and that is approved by the federal Food and Drug
80 Administration for the treatment of [~~a~~] an opiate-related drug overdose event.

81 [~~(5)~~] (10) "Opiate-related drug overdose event" means an acute condition, including a
82 decreased level of consciousness or respiratory depression resulting from the consumption or
83 use of a controlled substance, or another substance with which a controlled substance was
84 combined, and that a person would reasonably believe to require medical assistance.

85 (11) "Overdose outreach provider" means:

86 (a) a law enforcement agency;

87 (b) a fire department;

88 (c) an emergency medical service provider, as defined in Section [26-8a-102](#);

89 (d) emergency medical service personnel, as defined in Section [26-8a-102](#);

90 (e) an organization providing treatment or recovery services for drug or alcohol use;

91 (f) an organization providing support services for an individual, or a family of an
92 individual, with a substance use disorder;

93 (g) an organization providing substance use or mental health services under contract
94 with a local substance abuse authority, as defined in Section 62A-15-102, or a local mental
95 health authority, as defined in Section 62A-15-102;

96 (h) an organization providing services to the homeless;

97 (i) a local health department; or

98 (j) an individual.

99 (12) "Patient counseling" means the same as that term is defined in Section
100 58-17b-102.

101 (13) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

102 (14) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.

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

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

105 **26-55-104. Prescribing, dispensing, and administering an opiate antagonist --**

106 **Immunity from liability.**

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

113 (b) A health care provider:

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

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

119 (2) Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502, a health care
120 provider who is licensed to prescribe [~~or dispense~~] an opiate antagonist may[, ~~without a~~

121 ~~prescriber-patient relationship,~~] prescribe or dispense an opiate antagonist [~~without liability for~~
 122 ~~any civil damages or acts or omissions made as a result of prescribing or dispensing an opiate~~
 123 ~~antagonist in good faith, to~~]:

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

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

129 (iii) to an overdose outreach provider for:

130 (A) furnishing to an individual under Subsection (2)(a)(i) or (2)(a)(ii), as provided in
 131 Section [26-55-105](#); or

132 (B) administering to an individual experiencing an opiate-related drug overdose event;

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

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

136 (3) A ~~[person]~~ health care provider who ~~[prescribes or]~~ dispenses an opiate antagonist
 137 to an individual or an overdose outreach provider under Subsection (2) shall provide education
 138 to the individual ~~[described in Subsection (2)(a) or (b)]~~ or overdose provider that includes
 139 ~~[instructions to take the person who received the opiate antagonist to an emergency care facility~~
 140 ~~for a medical evaluation.]~~ written instruction on:

141 (a) how to recognize an opiate-related drug overdose event; and

142 (b) how to respond appropriately to an opiate-related drug overdose event, including:

143 (i) how to administer an opiate antagonist; and

144 (ii) how to ensure that an individual to whom an opiate antagonist has been

145 administered receives, as soon as possible, additional medical care and a medical evaluation.

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

147 **26-55-105. Overdose outreach providers.**

148 Notwithstanding Sections [58-1-501](#), [58-17b-501](#), and [58-17b-502](#):

149 (1) an overdose outreach provider may:

150 (a) obtain an opiate antagonist dispensed on prescription by:

151 (i) a health care provider, in accordance with Subsections [26-55-104](#)(2) and (3); or

152 (ii) a pharmacist or pharmacy intern, as otherwise authorized by Title 58, Chapter 17b,
153 Pharmacy Practice Act;

154 (b) store the opiate antagonist; and

155 (c) furnish the opiate antagonist:

156 (i) (A) to an individual who is at increased risk of experiencing an opiate-related drug
157 overdose event; or

158 (B) to a family member of, friend of, or other individual who may be in a position to
159 assist an individual who is at increased risk of experiencing an opiate-related drug overdose
160 event; and

161 (ii) without liability for any civil damages for acts or omissions made as a result of
162 furnishing the opiate antagonist in good faith; and

163 (2) when furnishing an opiate antagonist under Subsection (1), an overdose outreach
164 provider:

165 (a) shall also furnish to the recipient of the opiate antagonist:

166 (i) the written instruction under Subsection [26-55-104\(3\)](#) received by the overdose
167 outreach provider from the health care provider at the time the opiate antagonist was dispensed
168 to the overdose outreach provider; or

169 (ii) if the opiate antagonist was dispensed to the overdose outreach provider by a
170 pharmacist or pharmacy intern, any written patient counseling under Section [58-17b-613](#)
171 received by the overdose outreach provider at the time of dispensing; and

172 (b) may provide additional instruction on how to recognize and respond appropriately
173 to an opiate-related drug overdose event.

174 Section 5. Section **58-17b-309** is amended to read:

175 **58-17b-309. Exemptions from licensure.**

176 In addition to the exemptions from licensure in Section [58-1-307](#), the following
177 individuals may engage in the acts or practices described in this section without being licensed
178 under this chapter:

179 (1) a person selling or providing contact lenses in accordance with Section [58-16a-801](#);

180 [and]

181 (2) an animal shelter that:

182 (a) under the indirect supervision of a veterinarian, stores, handles, or administers a

183 drug used for euthanising an animal; and

184 (b) under the indirect supervision of a veterinarian who is under contract with the
185 animal shelter, stores, handles, or administers a rabies vaccine; and

186 (3) an overdose outreach provider, as defined in Section 26-55-102, that obtains,
187 stores, or furnishes an opiate antagonist in accordance with Title 26, Chapter 55, Opiate
188 Overdose Response Act.

189 Section 6. Section 58-17b-507 is amended to read:

190 **58-17b-507. Opiate antagonist -- Immunity from liability -- Exclusion from**
191 **unlawful or unprofessional conduct.**

192 (1) As used in this section:

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

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

196 (2) A person licensed under this chapter who dispenses an opiate antagonist [~~as defined~~
197 ~~in Section 26-55-102~~] to an individual with a prescription for an opiate antagonist, or to an
198 overdose outreach provider with a prescription for an opiate antagonist, is not liable for any
199 civil damages resulting from the outcomes that result from the eventual administration of the
200 opiate antagonist to [~~a person~~] an individual who another [~~person~~] individual believes is
201 [~~suffering~~] experiencing an opiate-related drug overdose [~~as defined in Section 26-55-102~~]
202 event.

203 [~~(2)~~] (3) The provisions of this section and Title 26, Chapter 55, Opiate Overdose
204 Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or
205 administration of an opiate antagonist.

206 [~~(3)~~] (4) It is not unprofessional conduct or unlawful conduct for a licensee under this
207 chapter to dispense an opiate antagonist to [~~a person~~] an individual on behalf of another
208 [~~person~~] individual if the [~~person~~] individual obtaining the opiate antagonist has a prescription
209 for the opiate antagonist from a licensed prescriber.

210 (5) It is not unprofessional conduct or unlawful conduct for a licensee under this
211 chapter to dispense an opiate antagonist to an overdose outreach provider if the overdose
212 outreach provider has a prescription for the opiate antagonist from a licensed prescriber issued
213 pursuant to Subsection 26-55-104(2)(a)(iii).

214 Section 7. Section **58-31b-703** is amended to read:

215 **58-31b-703. Opiate antagonist -- Exclusion from unprofessional or unlawful**
216 **conduct.**

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

219 (1) As used in this section:

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

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

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

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

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

226 (2) The prescribing or dispensing of an opiate antagonist [~~as defined in Section~~
227 ~~26-55-102~~] by a licensee under this chapter is not unprofessional or unlawful conduct if the
228 licensee prescribed or dispensed the opiate antagonist:

229 (a) in a good faith effort to assist:

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

232 or

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

236 (b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).

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

240 Section 8. Section **58-67-702** is amended to read:

241 **58-67-702. Opiate antagonist -- Exclusion from unlawful or unprofessional**
242 **conduct.**

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

245 (1) As used in this section:

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

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

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

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

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

252 (2) The prescribing or dispensing of an opiate antagonist [~~as defined in Section~~
253 [26-55-102](#)] by a licensee under this chapter is not unprofessional or unlawful conduct if the
254 licensee prescribed or dispensed the opiate antagonist:

255 (a) in a good faith effort to assist:

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

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

262 (b) to an overdose outreach provider pursuant to Subsection [26-55-104\(2\)\(a\)\(iii\)](#).

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

267 **58-68-702. 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:

281 (a) in a good faith effort to assist:

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

284 or

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

288 (b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).

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

292 Section 10. Section **58-69-702** is enacted to read:

293 **58-69-702. Opiate antagonist -- Exclusion from unlawful or unprofessional**
294 **conduct.**

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 by an individual licensed
303 under this chapter to engage in the practice of dentistry is not unprofessional or unlawful
304 conduct if the licensee prescribed or dispensed the opiate antagonist:

305 (a) in a good faith effort to assist:

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

307 overdose event; or

308 (ii) a family member of, friend of, or other individual who is in a position to assist an
 309 individual who is at increased risk of experiencing an opiate-related drug overdose event; or

310 (b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).

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

314 Section 11. 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;

329 (a) in a good faith effort to assist:

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

332 or

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

336 (b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).

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

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

Legislative Review Note
Office of Legislative Research and General Counsel