

Chapter 299

(Senate Bill 610)

AN ACT concerning

Health – Overdose Response Program – Establishment

FOR the purpose of providing for an Overdose Response Program overseen by the Department of Health and Mental Hygiene; stating the purpose of the Program; ~~authorizing~~ requiring the Department to adopt certain regulations and authorizing the Department to take certain other action regarding the Program; specifying the requirements an individual must meet to qualify for a certain certificate; requiring that a certain educational training program be conducted by a physician or nurse practitioner or certain other individuals and include certain training; requiring an applicant for a certificate to submit a certain application; requiring a certain public or private entity to issue a certificate to an applicant under certain circumstances; requiring that a certificate contain certain information; providing that a replacement certificate may be issued under certain circumstances; providing for the term and renewal of a certain certificate; authorizing an individual who is certified to receive from a certain individual a prescription for naloxone and certain supplies, possess prescribed naloxone and certain paraphernalia, and administer naloxone, under certain circumstances, to certain individuals; authorizing a physician or nurse practitioner to prescribe and dispense naloxone to a certificate holder; ~~prohibiting a certain cause of action from arising against a certificate holder, physician, or nurse practitioner under certain circumstances; prohibiting a certificate holder, physician, and nurse practitioner from being held civilly or criminally liable for certain actions;~~ providing that a certificate holder, under certain circumstances, may not be considered to be practicing medicine for the purposes of a certain provision of law; ~~providing that a certain provision of this Act does not affect certain immunities or defenses; prohibiting an individual from being held civilly liable in certain actions under certain circumstances~~ providing that a physician who prescribes or dispenses naloxone may not be subject to certain disciplinary or other action under certain circumstances; providing for the construction of this Act; defining certain terms; and generally relating to the Overdose Response Program.

BY adding to

Article – Health – General

Section 13–3101 through ~~13–3110~~ 13–3109 to be under the new subtitle

“Subtitle 31. Overdose Response Program”

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health – General

SUBTITLE 31. OVERDOSE RESPONSE PROGRAM.

13-3101.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “CERTIFICATE” MEANS A CERTIFICATE ISSUED BY A PRIVATE OR PUBLIC ENTITY TO ADMINISTER NALOXONE.

(C) “PRIVATE OR PUBLIC ENTITY” MEANS A HEALTH CARE PROVIDER, LOCAL HEALTH DEPARTMENT, COMMUNITY-BASED ORGANIZATION, SUBSTANCE ABUSE TREATMENT ORGANIZATION, OR OTHER PERSON THAT ADDRESSES MEDICAL OR SOCIAL ISSUES RELATED TO DRUG ADDICTION.

(D) “PROGRAM” MEANS AN OVERDOSE RESPONSE PROGRAM.

13-3102.

AN OVERDOSE RESPONSE PROGRAM IS A PROGRAM OVERSEEN BY THE DEPARTMENT FOR THE PURPOSE OF PROVIDING A MEANS OF AUTHORIZING CERTAIN INDIVIDUALS TO ADMINISTER NALOXONE TO AN INDIVIDUAL EXPERIENCING, OR BELIEVED TO BE EXPERIENCING, OPIOID OVERDOSE TO HELP PREVENT A FATALITY WHEN MEDICAL SERVICES ARE NOT IMMEDIATELY AVAILABLE.

13-3103.

(A) THE DEPARTMENT ~~MAY:~~

~~(1)~~ ~~ADOPT~~ SHALL ADOPT REGULATIONS NECESSARY FOR THE ADMINISTRATION OF THE PROGRAM;

(B) THE DEPARTMENT MAY:

~~(2)~~ (1) COLLECT FEES NECESSARY FOR THE ADMINISTRATION OF THE PROGRAM;

~~(3)~~ (2) AUTHORIZE PRIVATE OR PUBLIC ENTITIES TO ISSUE AND RENEW CERTIFICATES TO PERSONS MEETING THE REQUIREMENTS OF THIS SUBTITLE;

~~(4)~~ (3) (I) AUTHORIZE PRIVATE OR PUBLIC ENTITIES TO CONDUCT EDUCATIONAL TRAINING PROGRAMS DESCRIBED IN § 13-3104 OF THIS SUBTITLE; AND

(II) DEVELOP GUIDANCE REGARDING THE CONTENT OF EDUCATIONAL TRAINING PROGRAMS CONDUCTED BY PRIVATE OR PUBLIC ENTITIES; AND

~~(5)~~ (4) COLLECT AND REPORT DATA ON THE OPERATION AND RESULTS OF THE PROGRAMS.

13-3104.

(A) TO QUALIFY FOR A CERTIFICATE, AN INDIVIDUAL SHALL MEET THE REQUIREMENTS OF THIS SECTION.

(B) THE APPLICANT SHALL BE AT LEAST 18 YEARS OLD.

(C) THE APPLICANT SHALL HAVE, OR REASONABLY EXPECT TO HAVE, AS A RESULT OF THE INDIVIDUAL'S OCCUPATION OR VOLUNTEER, FAMILY, OR SOCIAL STATUS, THE ABILITY TO ASSIST AN INDIVIDUAL WHO IS EXPERIENCING AN OPIOID OVERDOSE.

(D) (1) THE APPLICANT SHALL SUCCESSFULLY COMPLETE AN EDUCATIONAL TRAINING PROGRAM ~~APPROVED~~ OFFERED BY A PRIVATE OR PUBLIC ENTITY AUTHORIZED BY THE DEPARTMENT.

(2) AN EDUCATIONAL TRAINING PROGRAM REQUIRED UNDER THIS SUBSECTION SHALL:

(I) BE CONDUCTED BY:

1. A PHYSICIAN LICENSED TO PRACTICE MEDICINE UNDER TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE;

2. A NURSE PRACTITIONER LICENSED TO PRACTICE REGISTERED NURSING UNDER TITLE 8 OF THE HEALTH OCCUPATIONS ARTICLE AND CERTIFIED AS A NURSE PRACTITIONER BY THE STATE BOARD OF NURSING; OR

3. AN EMPLOYEE OR A VOLUNTEER OF A PRIVATE OR PUBLIC ENTITY THAT MAINTAINS A WRITTEN AGREEMENT WITH A SUPERVISORY PHYSICIAN OR NURSE PRACTITIONER THAT INCLUDES:

A. PROCEDURES FOR PROVIDING PATIENT OVERDOSE INFORMATION;

B. INFORMATION AS TO HOW THE EMPLOYEE OR VOLUNTEER PROVIDING THE INFORMATION WILL BE TRAINED; AND

C. STANDARDS FOR DOCUMENTING THE PROVISION OF PATIENT OVERDOSE INFORMATION TO PATIENTS; AND

(II) INCLUDE TRAINING IN:

1. THE RECOGNITION OF THE SYMPTOMS OF OPIOID OVERDOSE;

2. THE PROPER ADMINISTRATION OF NALOXONE;

3. THE IMPORTANCE OF CONTACTING EMERGENCY MEDICAL SERVICES;

4. THE CARE OF AN INDIVIDUAL AFTER THE ADMINISTRATION OF NALOXONE; AND

5. ANY OTHER TOPICS REQUIRED BY THE DEPARTMENT.

13-3105.

AN APPLICANT FOR A CERTIFICATE SHALL SUBMIT AN APPLICATION TO A PRIVATE OR PUBLIC ENTITY AUTHORIZED BY THE DEPARTMENT ON THE FORM THAT THE DEPARTMENT REQUIRES.

13-3106.

(A) A PRIVATE OR PUBLIC ENTITY AUTHORIZED BY THE DEPARTMENT SHALL ISSUE A CERTIFICATE TO ANY APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.

(B) EACH CERTIFICATE SHALL INCLUDE:

(1) A STATEMENT THAT THE HOLDER IS AUTHORIZED TO ADMINISTER NALOXONE IN ACCORDANCE WITH THIS SUBTITLE;

(2) THE FULL NAME OF THE CERTIFICATE HOLDER; AND

(3) A SERIAL NUMBER.

(C) A REPLACEMENT CERTIFICATE MAY BE ISSUED TO REPLACE A LOST, DESTROYED, OR MUTILATED CERTIFICATE.

(D) (1) THE CERTIFICATE SHALL BE VALID FOR 2 YEARS AND MAY BE RENEWED.

(2) IN ORDER TO RENEW A CERTIFICATE, THE CERTIFICATE HOLDER SHALL:

(I) SUCCESSFULLY COMPLETE A REFRESHER TRAINING PROGRAM CONDUCTED BY AN AUTHORIZED PRIVATE OR PUBLIC ENTITY; OR

(II) DEMONSTRATE PROFICIENCY TO THE PRIVATE OR PUBLIC ENTITY ISSUING CERTIFICATES UNDER THIS SUBTITLE.

13-3107.

AN INDIVIDUAL WHO IS CERTIFIED MAY:

(1) ON PRESENTMENT OF A CERTIFICATE, RECEIVE FROM ANY PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THE STATE, OR ANY NURSE PRACTITIONER LICENSED TO PRACTICE NURSING IN THE STATE, A PRESCRIPTION FOR NALOXONE AND THE NECESSARY SUPPLIES FOR THE ADMINISTRATION OF NALOXONE;

(2) POSSESS PRESCRIBED NALOXONE AND THE NECESSARY SUPPLIES FOR THE ADMINISTRATION OF NALOXONE; AND

(3) IN AN EMERGENCY SITUATION WHEN MEDICAL SERVICES ARE NOT IMMEDIATELY AVAILABLE, ADMINISTER NALOXONE TO AN INDIVIDUAL EXPERIENCING OR BELIEVED BY THE CERTIFICATE HOLDER TO BE EXPERIENCING AN OPIOID OVERDOSE.

13-3108.

A PHYSICIAN OR NURSE PRACTITIONER MAY PRESCRIBE AND DISPENSE NALOXONE TO A CERTIFICATE HOLDER.

~~13-3109.~~

~~(A) (1) A CAUSE OF ACTION MAY NOT ARISE AGAINST A CERTIFICATE HOLDER AUTHORIZED UNDER THIS SUBTITLE FOR ANY ACT OR OMISSION WHEN THE CERTIFICATE HOLDER IS ACTING IN GOOD FAITH WHILE RENDERING EMERGENCY TREATMENT TO AN INDIVIDUAL EXPERIENCING OR BELIEVED BY THE CERTIFICATE HOLDER TO BE EXPERIENCING AN OPIOID OVERDOSE, UNLESS THE CONDUCT OF THE CERTIFICATE HOLDER AMOUNTS TO GROSS NEGLIGENCE, WILLFUL OR WANTON MISCONDUCT, OR INTENTIONALLY TORTIOUS CONDUCT.~~

~~(2) A CERTIFICATE HOLDER WHO IS IN POSSESSION OF OR IS ADMINISTERING NALOXONE TO AN INDIVIDUAL EXPERIENCING OR BELIEVED BY THE CERTIFICATE HOLDER TO BE EXPERIENCING AN OPIOID OVERDOSE MAY NOT BE HELD CIVILLY OR CRIMINALLY LIABLE FOR ACTIONS AUTHORIZED BY THIS SUBTITLE.~~

~~(3) A CERTIFICATE HOLDER WHO, IN ACCORDANCE WITH THIS SUBTITLE, IS ADMINISTERING NALOXONE TO AN INDIVIDUAL EXPERIENCING OR BELIEVED BY THE CERTIFICATE HOLDER TO BE EXPERIENCING AN OPIOID OVERDOSE MAY NOT BE CONSIDERED TO BE PRACTICING MEDICINE FOR THE PURPOSES OF TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE.~~

~~(B) (1) A CAUSE OF ACTION MAY NOT ARISE AGAINST ANY PHYSICIAN OR NURSE PRACTITIONER FOR ANY ACT OR OMISSION WHEN THE PHYSICIAN OR NURSE PRACTITIONER IN GOOD FAITH PRESCRIBES, TO AN INDIVIDUAL CERTIFIED UNDER § 13-3106 OF THIS SUBTITLE, NALOXONE AND THE NECESSARY SUPPLIES FOR THE ADMINISTRATION OF NALOXONE.~~

~~(2) A PHYSICIAN OR NURSE PRACTITIONER MAY NOT BE HELD CIVILLY OR CRIMINALLY LIABLE FOR ACTIONS AUTHORIZED BY THIS SUBTITLE.~~

~~(C) THIS SECTION DOES NOT AFFECT, AND MAY NOT BE CONSTRUED TO AFFECT, ANY IMMUNITIES FROM CIVIL LIABILITY OR DEFENSES ESTABLISHED BY ANY OTHER PROVISION OF STATE LAW OR BY COMMON LAW TO WHICH A VOLUNTEER, PHYSICIAN, OR NURSE PRACTITIONER MAY BE ENTITLED.~~

~~13-3110.~~

~~(A) THIS SUBTITLE MAY NOT BE CONSTRUED TO:~~

~~(1) CREATE A DUTY ON ANY INDIVIDUAL TO OBTAIN A CERTIFICATE UNDER THIS SUBTITLE, AND AN INDIVIDUAL MAY NOT BE HELD CIVILLY LIABLE FOR FAILING TO OBTAIN A CERTIFICATE UNDER THIS SUBTITLE; OR~~

~~(2) CREATE A DUTY ON A CERTIFICATE HOLDER TO ADMINISTER NALOXONE TO AN INDIVIDUAL EXPERIENCING, OR BELIEVED BY THE CERTIFICATE HOLDER TO BE EXPERIENCING, AN OPIOID OVERDOSE.~~

~~(B) AN INDIVIDUAL MAY NOT BE HELD CIVILLY LIABLE IN ANY ACTION ARISING FROM OR IN CONNECTION WITH THE ADMINISTRATION OF NALOXONE BY THE INDIVIDUAL SOLELY BECAUSE THE INDIVIDUAL DID NOT POSSESS A CERTIFICATE ISSUED UNDER THIS SUBTITLE~~ A PHYSICIAN WHO PRESCRIBES OR DISPENSES NALOXONE TO A CERTIFICATE HOLDER IN A MANNER CONSISTENT WITH THE PROTOCOL ESTABLISHED BY THE AUTHORIZED PRIVATE OR PUBLIC ENTITY MAY NOT BE SUBJECT TO ANY DISCIPLINARY OR OTHER ACTION UNDER TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE SOLELY FOR THE ACT OF PRESCRIBING OR DISPENSING NALOXONE TO THE CERTIFICATE HOLDER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.