

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-THREE

—
S.P. 692 - L.D. 1728

An Act to Ensure Access to Federally Approved Opioid Overdose-reversing Medication

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 17-A MRSA §1111-B, sub-§1, ¶C, as enacted by PL 2021, c. 724, §1, is amended to read:

C. "Rendering aid" means performing any action that involves looking after a person who is experiencing a suspected drug-related overdose while the person performing the action is awaiting the arrival of a medical professional or law enforcement officer to provide assistance. "Rendering aid" includes, but is not limited to, giving first aid or administering or assisting in the administration of naloxone hydrochloride or another opioid overdose-reversing medication approved by the federal Food and Drug Administration.

Sec. 2. 20-A MRSA §6307, as enacted by PL 2021, c. 115, §1, is amended to read:

§6307. ~~Naloxone hydrochloride possession~~ Possession, prescription, administration and distribution of naloxone hydrochloride or another opioid overdose-reversing medication

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Collaborative practice agreement" means a written and signed agreement between a physician licensed in this State or a school health advisor and a school nurse that provides for the possession, prescription, administration and distribution of naloxone hydrochloride or another opioid overdose-reversing medication by the physician or school health advisor and administration of naloxone hydrochloride or another opioid overdose-reversing medication by the school nurse or designated school personnel to students, staff or visitors during school or a school-sponsored activity or otherwise on school grounds under emergency circumstances involving an opioid overdose or apparent opioid overdose.

B. "Designated school personnel" means those employees, agents or volunteers of a school administrative unit or approved private school designated by a collaborative

practice agreement who have completed the training required by the guidelines developed pursuant to subsection 8 to administer naloxone hydrochloride or another opioid overdose-reversing medication to a student, staff member or visitor.

C. "Naloxone hydrochloride or another opioid overdose-reversing medication" means medication that has been approved by the federal Food and Drug Administration, in a noninjectable form, administered to reverse the effects of opioids in the emergency treatment of an opioid overdose.

D. "School" means a public or approved private school.

E. "School health advisor" means a physician or family or pediatric nurse practitioner appointed to act as a school health advisor pursuant to section 6402-A.

F. "School nurse" means a nurse appointed to serve as a school nurse pursuant to section 6403-A.

2. Collaborative practice agreement; adoption authorized. A school administrative unit or an approved private school may authorize adoption of a collaborative practice agreement for the purposes of stocking, possessing and administering naloxone hydrochloride or another opioid overdose-reversing medication as provided under this section. The administration of naloxone hydrochloride or another opioid overdose-reversing medication in accordance with this section is not the practice of medicine.

3. Collaborative practice agreement; authority. A collaborative practice agreement permits a physician licensed in this State or school health advisor to prescribe naloxone hydrochloride or another opioid overdose-reversing medication and direct a school nurse to administer naloxone hydrochloride or another opioid overdose-reversing medication in good faith to any student, staff member or visitor experiencing an apparent opioid overdose during school or a school-sponsored activity or otherwise on school grounds. Pursuant to a collaborative practice agreement, a physician licensed in this State or school health advisor may authorize the school nurse during school or a school-sponsored activity or otherwise on school grounds to designate designated school personnel to administer naloxone hydrochloride or another opioid overdose-reversing medication if the school nurse is not present when a student, staff member or visitor experiences a suspected opioid overdose.

4. Collaborative practice agreement; terms and provisions. A collaborative practice agreement must include the following information:

A. Name and address of the school;

B. Identification and signatures of the physician or school health advisor and school nurse who are parties to the collaborative practice agreement, the dates the agreement is signed by each party and the beginning and end dates of the period of time within which the agreement is in effect; and

C. Any other information considered appropriate by the physician or school health advisor and school nurse.

5. Use of naloxone hydrochloride or another opioid overdose-reversing medication without a collaborative practice agreement. If a collaborative practice agreement has not been adopted pursuant to subsection 2, the governing body of a school administrative unit or an approved private school may authorize a school nurse or other

licensed health care professional whose scope of practice includes administration of naloxone hydrochloride or another opioid overdose-reversing medication to:

- A. Stock and possess naloxone hydrochloride or another opioid overdose-reversing medication prescribed by a legally authorized individual; and
- B. Administer naloxone hydrochloride or another opioid overdose-reversing medication prescribed by a legally authorized individual to any student, staff member or visitor that the school nurse or other licensed health care professional, based on the school nurse's or other licensed health care professional's professional judgment, suspects to be experiencing an opioid overdose.

The administration of naloxone hydrochloride or another opioid overdose-reversing medication in accordance with this subsection is not the practice of medicine.

6. Manufacturer or supplier arrangement. A school administrative unit or an approved private school may enter into an arrangement with a manufacturer of naloxone hydrochloride or another opioid overdose-reversing medication or a 3rd-party supplier of naloxone hydrochloride or another opioid overdose-reversing medication to obtain naloxone hydrochloride or another opioid overdose-reversing medication at fair market prices, reduced prices or no cost.

7. Purchase from licensed pharmacies. A collaborative practice agreement under this section may provide that a school administrative unit or an approved private school may purchase naloxone hydrochloride or another opioid overdose-reversing medication from a pharmacy licensed in this State.

8. Guidelines. By January 1, 2022, and as needed after that date, the department in consultation with the Department of Health and Human Services shall develop and make available to all schools guidelines for the management of opioid overdose during school or a school-sponsored activity or otherwise on school grounds. The guidelines must include, but are not limited to:

- A. Education and training for school personnel on recognition of opioid overdose, rescue breathing and the administration of naloxone hydrochloride or another opioid overdose-reversing medication; and
- B. Procedures for responding to opioid overdose.

Sec. 3. 22 MRSA §2353, as amended by PL 2021, c. 605, §§1 and 2, is further amended to read:

§2353. Naloxone hydrochloride or another opioid overdose-reversing medication

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Health care professional" means a person licensed under Title 32 who is authorized to prescribe naloxone hydrochloride or another opioid overdose-reversing medication.
- A-1. "Another opioid overdose-reversing medication" means a medication approved by the federal Food and Drug Administration for the immediate treatment of an opioid overdose.
- B. "Immediate family" has the same meaning as set forth in Title 21-A, section 1, subsection 20.

C. "Opioid-related drug overdose" means a condition including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma or death resulting from the consumption or use of an opioid, or another substance with which an opioid was combined, or a condition that a reasonable person would believe to be an opioid-related drug overdose that requires medical assistance.

D. "Pharmacist" means a pharmacist authorized to prescribe and dispense naloxone hydrochloride or another opioid overdose-reversing medication pursuant to Title 32, section 13815.

E. "Recovery residence" means a shared living residence for individuals recovering from substance use disorder that is focused on peer support, provides to its residents an environment free of alcohol and illegal drugs and assists its residents by connecting the residents to support services or resources in the community that are available to persons recovering from substance use disorder.

F. "Corrections officer" means a person who is responsible for the custody or direct supervision of a person confined in a jail, prison or correctional facility pursuant to an order of a court or as a result of an arrest.

2. Prescription; possession; administration. The prescription, possession and administration of naloxone hydrochloride or another opioid overdose-reversing medication is governed by this subsection.

A. A health care professional may directly or by standing order prescribe naloxone hydrochloride or another opioid overdose-reversing medication to an individual at risk of experiencing an opioid-related drug overdose.

A-1. A pharmacist may prescribe and dispense naloxone hydrochloride or another opioid overdose-reversing medication in accordance with protocols established under Title 32, section 13815 to an individual of any age at risk of experiencing an opioid-related drug overdose.

B. An individual to whom naloxone hydrochloride or another opioid overdose-reversing medication is prescribed or dispensed in accordance with paragraph A or A-1 may provide the naloxone hydrochloride or another opioid overdose-reversing medication so prescribed or dispensed to a member of that individual's immediate family to possess and administer to the individual if the family member believes in good faith that the individual is experiencing an opioid-related drug overdose.

C. A health care professional may directly or by standing order prescribe naloxone hydrochloride or another opioid overdose-reversing medication to a member of an individual's immediate family or a friend of the individual or to another person in a position to assist the individual if the individual is at risk of experiencing an opioid-related drug overdose.

C-1. A pharmacist may prescribe and dispense naloxone hydrochloride or another opioid overdose-reversing medication in accordance with protocols established under Title 32, section 13815 to a person of any age who is a member of an individual's immediate family or a friend of the individual or to another person in a position to assist the individual if the individual is at risk of experiencing an opioid-related drug overdose.

D. If a member of an individual's immediate family, friend of the individual or other person is prescribed or provided naloxone hydrochloride or another opioid overdose-reversing medication in accordance with paragraph C or C-1, that family member, friend or other person may administer the naloxone hydrochloride or another opioid overdose-reversing medication to the individual if the family member, friend or other person believes in good faith that the individual is experiencing an opioid-related drug overdose.

Nothing in this subsection affects the provisions of law relating to maintaining the confidentiality of medical records.

2-A. Dispensing of naloxone hydrochloride or another opioid overdose-reversing medication by emergency medical services persons, ambulance services and nontransporting emergency medical services. Notwithstanding any provision of law to the contrary, pursuant to a standing order issued in accordance with protocols developed by the Medical Direction and Practices Board pursuant to Title 32, section 88-B, subsection 1, paragraph A, an emergency medical services person, ambulance service or nontransporting emergency medical service licensed under Title 32, chapter 2-B may dispense naloxone hydrochloride or another opioid overdose-reversing medication to an individual of any age at risk of experiencing an opioid-related drug overdose or to a member of the individual's immediate family, a friend of the individual or another person in a position to assist the individual if the individual is at risk of experiencing an opioid-related drug overdose.

3. Authorized administration and dispensing of naloxone hydrochloride or another opioid overdose-reversing medication by law enforcement officers, corrections officers and municipal firefighters. A law enforcement agency as defined in Title 25, section 3701, subsection 1, a regional or county jail, a prison, a correctional facility as defined in Title 34-A, section 1001, subsection 6 or a municipal fire department as defined in Title 30-A, section 3151, subsection 1 is authorized to obtain a supply of naloxone hydrochloride or another opioid overdose-reversing medication to be administered or dispensed in accordance with this subsection. A law enforcement officer as defined in Title 17-A, section 2, subsection 17, in accordance with policies adopted by the law enforcement agency, a corrections officer, in accordance with policies adopted by the jail, prison or correctional facility, and a municipal firefighter as defined in Title 30-A, section 3151, subsection 2, in accordance with policies adopted by the municipality, may administer or dispense intranasal naloxone hydrochloride or another opioid overdose-reversing medication as clinically indicated if the law enforcement officer, corrections officer or municipal firefighter has received medical training in accordance with protocols adopted by the Medical Direction and Practices Board established in Title 32, section 83, subsection 16-B. The Medical Direction and Practices Board shall establish medical training protocols for law enforcement officers, corrections officers and municipal firefighters pursuant to this subsection.

4. Community-based drug overdose prevention programs; standing orders for naloxone hydrochloride or another opioid overdose-reversing medication. Acting under standing orders from a licensed health care professional authorized by law to prescribe naloxone hydrochloride or another opioid overdose-reversing medication, a public health agency that provides services to populations at high risk for a drug overdose

may establish an overdose prevention program in accordance with rules adopted by the department and the provisions of this subsection.

A. Notwithstanding any other provision of law to the contrary, an overdose prevention program established under this subsection may store and dispense naloxone hydrochloride or another opioid overdose-reversing medication without being subject to the provisions of Title 32, chapter 117 as long as these activities are undertaken without charge or compensation.

B. An overdose prevention program established under this subsection may distribute unit-of-use packages of naloxone hydrochloride or another opioid overdose-reversing medication and the medical supplies necessary to administer the naloxone hydrochloride or another opioid overdose-reversing medication to a person who has successfully completed training provided by the overdose prevention program that meets the protocols and criteria established by the department, so that the person may possess and administer naloxone hydrochloride or another opioid overdose-reversing medication to an individual who appears to be experiencing an opioid-related drug overdose.

The department shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

4-A. Recovery residences; standing orders for naloxone hydrochloride or another opioid overdose-reversing medication. Acting under standing orders from a licensed health care professional authorized by law to prescribe naloxone hydrochloride or another opioid overdose-reversing medication, a recovery residence shall operate in accordance with rules adopted by the department and the provisions of this subsection.

A. Notwithstanding any provision of law to the contrary, a recovery residence shall store and dispense naloxone hydrochloride or another opioid overdose-reversing medication and is not subject to the provisions of Title 32, chapter 117. The recovery residence shall store on site at least 2 units of naloxone hydrochloride or another opioid overdose-reversing medication for each floor of the recovery residence.

B. A recovery residence shall provide training in administration of naloxone hydrochloride or another opioid overdose-reversing medication that meets the protocols and criteria established by the department, and residents of the recovery residence, employees of the recovery residence and all other persons involved in the administration of a recovery residence shall successfully complete the training.

C. A licensed health care professional authorized by law to prescribe naloxone hydrochloride or another opioid overdose-reversing medication shall distribute unit-of-use packages of naloxone hydrochloride or another opioid overdose-reversing medication and ~~the~~ any medical supplies necessary to administer the naloxone hydrochloride or another opioid overdose-reversing medication to a recovery residence that has provided training described in paragraph B so that the recovery residence may possess and administer naloxone hydrochloride or another opioid overdose-reversing medication to an individual who appears to be experiencing a drug-related overdose.

The department shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Immunity. The following provisions provide immunity for actions taken in accordance with this section.

A. A health care professional or a pharmacist, acting in good faith and with reasonable care, is immune from criminal and civil liability and is not subject to professional disciplinary action for storing, dispensing or prescribing naloxone hydrochloride or another opioid overdose-reversing medication in accordance with this section or for any outcome resulting from such actions.

B. A person, acting in good faith and with reasonable care, is immune from criminal and civil liability and is not subject to professional disciplinary action for possessing or providing to another person naloxone hydrochloride or another opioid overdose-reversing medication in accordance with this section or for administering naloxone hydrochloride or another opioid overdose-reversing medication in accordance with this section to an individual whom the person believes in good faith is experiencing an opioid-related drug overdose or for any outcome resulting from such actions.

Sec. 4. 24-A MRSA §2159-E, as enacted by PL 2019, c. 203, §1, is amended to read:

§2159-E. Discrimination against naloxone hydrochloride or another opioid overdose-reversing medication purchases prohibited in life insurance

1. Discrimination prohibited. Notwithstanding any provision of law to the contrary and except as provided in subsection 2, an insurer authorized to do business in this State may not:

A. Limit coverage or refuse to issue or renew coverage of an individual under any life insurance policy due to the fact that the individual has been issued a prescription for naloxone hydrochloride or another opioid overdose-reversing medication or has purchased naloxone hydrochloride or another opioid overdose-reversing medication in accordance with Title 22, section 2353;

B. Consider the fact that an individual has been issued a prescription for naloxone hydrochloride or another opioid overdose-reversing medication or has purchased naloxone hydrochloride or another opioid overdose-reversing medication in determining the premium rate for coverage of that individual under a life insurance policy; or

C. Otherwise discriminate in the offering, issuance, cancellation, amount of coverage, price or any other condition of a life insurance policy based solely and without any additional actuarial justification upon the fact that an individual has been issued a prescription for naloxone hydrochloride or another opioid overdose-reversing medication or has purchased naloxone hydrochloride or another opioid overdose-reversing medication.

An opioid overdose-reversing medication referenced in this subsection must be approved by the federal Food and Drug Administration.

2. Exception. An insurer may take an action described in subsection 1 with respect to an individual who has a demonstrated history of opioid use disorder.

Sec. 5. 32 MRSA §85, sub-§8, as enacted by PL 2021, c. 161, §4, is amended to read:

8. Naloxone hydrochloride or another opioid overdose-reversing medication. An emergency medical services person licensed under this chapter may dispense naloxone hydrochloride or another opioid overdose-reversing medication in accordance with Title 22, section 2353, subsection 2-A and the rules adopted and protocols developed for emergency medical services persons under this chapter. An opioid overdose-reversing medication referenced in this subsection must be approved by the federal Food and Drug Administration.

Sec. 6. 32 MRSA §86, sub-§4, as enacted by PL 2021, c. 161, §5, is amended to read:

4. Naloxone hydrochloride or another opioid overdose-reversing medication. An ambulance service or a nontransporting emergency medical service licensed under this chapter may dispense naloxone hydrochloride or another opioid overdose-reversing medication in accordance with Title 22, section 2353, subsection 2-A and the rules adopted and protocols developed for ambulance services and nontransporting emergency medical services under this chapter. An opioid overdose-reversing medication referenced in this subsection must be approved by the federal Food and Drug Administration.

Sec. 7. 32 MRSA c. 117, sub-c. 11-A, headnote is amended to read:

SUBCHAPTER 11-A

PRESCRIBING AND DISPENSING OF NALOXONE HYDROCHLORIDE AND OTHER OPIOID OVERDOSE-REVERSING MEDICATIONS

Sec. 8. 32 MRSA §13815, sub-§2, as amended by PL 2017, c. 364, §7, is further amended to read:

2. Rules for prescribing and dispensing naloxone hydrochloride or another opioid overdose-reversing medication. The board by rule shall establish standards for authorizing pharmacists to prescribe and dispense naloxone hydrochloride or another opioid overdose-reversing medication in accordance with Title 22, section 2353, subsection 2, paragraphs A-1 and C-1. The rules must establish adequate training requirements and protocols for prescribing and dispensing naloxone hydrochloride or another opioid overdose-reversing medication when there is no prescription drug order, standing order or collaborative practice agreement authorizing naloxone hydrochloride or another opioid overdose-reversing medication to be dispensed to the intended recipient. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. A pharmacist authorized by the board pursuant to this subsection to prescribe and dispense naloxone hydrochloride or another opioid overdose-reversing medication may prescribe and dispense naloxone hydrochloride or another opioid overdose-reversing medication in accordance with Title 22, section 2353, subsection 2,

paragraphs A-1 and C-1. An opioid overdose-reversing medication referenced in this subsection must be approved by the federal Food and Drug Administration.