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THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1041 Session of 2022

INTRODUCED BY YAW, MARTIN, BARTOLOTTA, J. WARD, MENSCH, STEFANO, BROOKS, PITTMAN AND VOGEL, FEBRUARY 3, 2022

REFERRED TO JUDICIARY, FEBRUARY 3, 2022

AN ACT

Amending the act of April 14, 1972 (P.L.233, No.64), entitled "An act relating to the manufacture, sale and possession of controlled substances, other drugs, devices and cosmetics; conferring powers on the courts and the secretary and Department of Health, and a newly created Pennsylvania Drug, Device and Cosmetic Board; establishing schedules of controlled substances; providing penalties; requiring registration of persons engaged in the drug trade and for the revocation or suspension of certain licenses and registrations; and repealing an act," further providing for drug overdose medication.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 13.8 of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, is amended to read:

Section 13.8. Drug Overdose Medication.--(a) The department, in carrying out its duties under 28 Pa. Code Ch. 1023 (relating to personnel), shall have the following duties:

(1) By December 31, [2014] 2022, amend the prehospital practitioner scope of practice of emergency medical services providers to include the administration of [naloxone] a drug or

device approved under the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 21 U.S.C. § 301 et seq.) for emergency reversal of a known or suspected opioid overdose.

(2) In consultation with the Pennsylvania Emergency Health Services Council, implement training, treatment protocols, equipment lists and other policies and procedures for all types of emergency medical services providers.

(3) In consultation with the Department of Drug and Alcohol Programs, develop or approve training and instructional materials about recognizing opioid-related overdoses, administering [naloxone] a drug or device approved under the Federal Food, Drug, and Cosmetic Act for emergency reversal of a known or suspected opioid overdose and promptly seeking medical attention. The training and instruction materials shall be provided free of charge on the Internet.

(b) A law enforcement agency, fire department or fire company may enter into written agreements with emergency medical services agencies, with the consent of that agency's medical director or a physician, to do the following:

(1) Obtain a supply of [naloxone] a drug or device approved under the Federal Food, Drug, and Cosmetic Act for emergency reversal of a known or suspected opioid overdose.

(2) Authorize a law enforcement officer or firefighter who has completed training under subsection (a)(2), or who has received the training and instructional materials under subsection (a)(3), to administer [naloxone] a drug or device approved under the Federal Food, Drug, and Cosmetic Act for emergency reversal of a known or suspected opioid overdose to an individual undergoing or believed to be undergoing an opioid-related drug overdose.

(c) Notwithstanding any other law to the contrary, a health care professional otherwise authorized to prescribe [naloxone] a drug or device approved under the Federal Food, Drug, and Cosmetic Act for emergency reversal of a known or suspected opioid overdose may dispense, prescribe or distribute [naloxone] a drug or device approved under the Federal Food, Drug, and Cosmetic Act for emergency reversal of a known or suspected opioid overdose directly or by a standing order to an authorized law enforcement officer or firefighter in accordance with an agreement under subsection (b) or to a person at risk of experiencing an opioid-related overdose or family member, friend or other person in a position to assist a person at risk of experiencing an opioid-related overdose.

(d) The provisions of the act of September 27, 1961 (P.L.1700, No.699), known as the "Pharmacy Act," shall not apply to a law enforcement officer or firefighter who stores [naloxone] a drug or device approved under the Federal Food, Drug, and Cosmetic Act for emergency reversal of a known or suspected opioid overdose pursuant to an agreement under subsection (b), and in accordance with directions from the health care professional that prescribed, dispensed or distributed the [naloxone] drug or device approved under the Federal Food, Drug, and Cosmetic Act for emergency reversal of a known or suspected opioid overdose, or to a person or organization acting at the direction of a health care professional authorized to prescribe [naloxone] a drug or device approved under the Federal Food, Drug, and Cosmetic Act for emergency reversal of a known or suspected opioid overdose so long as such activities are undertaken without charge or compensation.

(e) (1) A licensed health care professional who, acting in good faith, prescribes or dispenses [naloxone] a drug or device approved under the Federal Food, Drug, and Cosmetic Act for emergency reversal of a known or suspected opioid overdose shall not be subject to any criminal or civil liability or any professional disciplinary action for:

(i) such prescribing or dispensing; or

(ii) any outcomes resulting from the eventual administration of [naloxone] a drug or device approved under the Federal Food, Drug, and Cosmetic Act for emergency reversal of a known or suspected opioid overdose.

(2) The immunity under paragraph (1) shall not apply to a health professional who acts with intent to harm or with reckless indifference to a substantial risk of harm.

(f) (1) A person, law enforcement agency, fire department or fire company under subsection (b)(2) or (c) who, acting in good faith and with reasonable care, administers [naloxone] a drug or device approved under the Federal Food, Drug, and Cosmetic Act for emergency reversal of a known or suspected opioid overdose to another person whom the person believes to be suffering an opioid-related drug overdose:

(i) Shall be immune from criminal prosecution, sanction under any professional licensing statute and civil liability for such act.

(ii) Shall not be subject to professional review for such act.

(iii) Shall not be liable for any civil damages for acts or omissions resulting from such act.

(2) Receipt of training and instructional materials that meet the criteria of subsection (a) and the prompt seeking of

additional medical assistance shall create a rebuttable presumption that the person acted with reasonable care in administering [naloxone] a drug or device approved under the Federal Food, Drug, and Cosmetic Act for emergency reversal of a known or suspected opioid overdose.

(g) Nothing in this section shall be interpreted to limit any existing immunities for emergency response providers and others provided for under 42 Pa.C.S. § 8332 (relating to emergency response provider and bystander good Samaritan civil immunity).

Section 2. This act shall take effect in 60 days.