

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 81 Session of 2023

INTRODUCED BY PHILLIPS-HILL, BREWSTER, STREET, TARTAGLIONE, DILLON, J. WARD, CAPPELLETTI, COMMITTA, ROBINSON, FARRY, STEFANO, HAYWOOD, YAW AND BROOKS, JANUARY 18, 2023

SENATOR MASTRIANO, VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, AS AMENDED, APRIL 26, 2023

AN ACT

1 Amending the act of September 27, 1961 (P.L.1700, No.699),
2 entitled "An act relating to the regulation of the practice
3 of pharmacy, including the sales, use and distribution of
4 drugs and devices at retail; and amending, revising,
5 consolidating and repealing certain laws relating thereto,"
6 further providing for definitions and for unlawful acts.

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

9 Section 1. Section 2 of the act of September 27, 1961
10 (P.L.1700, No.699), known as the Pharmacy Act, is amended by
11 adding clauses to read:

12 Section 2. Definitions.--As used in this act:

13 * * *

14 (24) "EMS provider" means "emergency medical services
15 provider" or "EMS provider" as defined in 35 Pa.C.S. § 8103
16 (relating to definitions).

17 (25) "Dose package" means an individually sealed package
18 that contains naloxone or another comparable treatment regimen
19 as determined by the Secretary of Health in a standing order to

1 be used for the reversal of a single opioid-related overdose
2 event.

3 Section 2. Section 8(2) of the act is amended and the
4 section is amended by adding a clause to read:

5 Section 8. Unlawful Acts.--It shall be unlawful for:

6 * * *

7 (2) [Any] Except as provided in clause (2.2), any person not
8 duly licensed as a pharmacist, pursuant to section 3 hereof, to
9 engage in the practice of pharmacy, including the preparing,
10 compounding, dispensing, selling or distributing at retail to
11 any person any drug, except by a pharmacy intern or such other
12 authorized personnel under the direct and immediate personal
13 supervision of a pharmacist: Provided, however, That nothing
14 herein shall be construed to prevent a duly licensed medical
15 practitioner from dispensing, compounding or otherwise giving
16 any drug to his own patients after diagnosis or treatment of
17 said patient, if such compounding, preparing and dispensing is
18 done by said licensee himself, nor shall anything herein prevent
19 any person from selling or distributing at retail household
20 remedies or proprietary medicines when the same are offered for
21 sale or sold in the original packages which have been put up
22 ready for sale to consumers, provided household remedies or
23 proprietary medicines shall not include any controlled
24 substances or non-proprietary drug under the act of April 14,
25 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug,
26 Device and Cosmetic Act."

27 * * *

28 (2.2) An EMS provider to dispense a dose package unless all
29 of the following apply:

30 (i) A standing order issued by the Secretary of Health

1 allows for the purchase of naloxone or a dose package by the
2 public without a prescription.

3 (ii) The EMS provider determines that it is appropriate to
4 dispense a dose package to a family member, a friend or another
5 individual who is in a position to assist a patient who has
6 experienced an opioid-related overdose event, based on the
7 immediate circumstances surrounding the event or other
8 conditions, including the availability and accessibility of a
9 pharmacy. The following shall apply: <--

10 ~~(A)~~ The THE dispensing of the dose package shall be <--
11 voluntary on the part of the EMS provider. The following shall
12 apply:

13 ~~(I)~~ (A) This subclause shall not create any obligation on <--
14 the part of an EMS provider to stock the dose package or
15 dispense the dose package to the family member, friend or other
16 individual.

17 ~~(II)~~ (B) The EMS provider shall not incur any liability for <--
18 not stocking the dose package or not dispensing the dose package
19 to the family member, friend or other individual.

20 ~~(B) Unless the dose package was supplied to the EMS provider~~ <--
21 ~~free of charge, an EMS provider that dispenses a dose package in~~
22 ~~accordance with this clause may bill the patient's insurer, as~~
23 ~~that term is defined in section 635.7 of the act of May 17, 1921~~
24 ~~(P.L.682, No.284), known as "The Insurance Company Law of 1921,"~~
25 ~~for the dispensing of the dose package under this subclause as a~~
26 ~~result of the opioid related overdose event. Payment by the~~
27 ~~insurer:~~

28 ~~(I) May not be denied on the basis that the EMS provider is~~
29 ~~not duly licensed as a pharmacist.~~

30 ~~(II) Shall be consistent with the terms of the patient's~~

1 ~~health insurance policy and, if applicable, section 635.7 of~~
2 ~~"The Insurance Company Law of 1921."~~

3 ~~(III) May not exceed the amount that a pharmacy would have~~
4 ~~received if the family member, friend or other individual had~~
5 ~~purchased the naloxone or other comparable regimen at the~~
6 ~~pharmacy.~~

7 (iii) The EMS provider enters the date and contents of the
8 dose package under subclause (ii) on the back of the dose
9 package or on another appropriate, uniformly maintained and
10 readily retrievable record. The EMS provider shall also sign the
11 dose package or record.

12 (iv) The EMS provider provides only one dose package under
13 subclause (ii) and the quantity of that dose package is in
14 conformity with the prescribed directions for use.

15 * * *

16 Section 3. This act shall take effect in 60 days.