

OPIATE OVERDOSE RESPONSE ACT AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike K. McKell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill clarifies civil liability in the Opiate Overdose Response Act.

Highlighted Provisions:

This bill:

- ▶ clarifies the persons who are not civilly liable when administering an opiate antagonist under certain circumstances; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-55-104, as last amended by Laws of Utah 2016, Chapters 202, 207, 208 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 202

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

Section 1. Section **26-55-104** is amended to read:

**26-55-104. Prescribing, dispensing, and administering an opiate antagonist --
Immunity from liability.**



28 (1) (a) (i) For purposes of Subsection (1)(a)(ii), "a person other than a health care
29 facility or health care provider" includes the following, regardless of whether the person has
30 received funds from the department through the Opiate Overdose Outreach Pilot Program
31 created in Section 26-55-107:

32 (A) a person described in Subsections 26-55-107(1)(a)(i)(A) through (1)(a)(i)(F); or

33 (B) an organization, defined by department rule made under Subsection
34 26-55-107(7)(e)₂ that is in a position to assist an individual who is at increased risk of
35 experiencing an opiate-related drug overdose event.

36 (ii) Except as provided in Subsection (1)(b), [~~a person, including an overdose outreach
37 provider, but not including a health care facility or health care provider, that~~] the following
38 individuals are not liable for any civil damages for acts or omissions made as a result of
39 administering an opiate antagonist when the individual acts in good faith to administer [an] the
40 opiate antagonist to an individual whom the person believes to be experiencing an
41 opiate-related drug overdose event [is not liable for any civil damages for acts or omissions
42 made as a result of administering the opiate antagonist.]:

43 (A) an overdose outreach provider; or

44 (B) a person other than a health care facility or health care provider.

45 (b) A health care provider:

46 (i) [~~does~~] is not [have immunity] immune from liability under Subsection (1)(a) when
47 the health care provider is acting within the scope of the health care provider's responsibilities
48 or duty of care; and

49 (ii) [~~does have immunity~~] is immune from liability under Subsection (1)(a) if the health
50 care provider is under no legal duty to respond and otherwise complies with Subsection (1)(a).

51 (2) Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502, a health care
52 provider who is licensed to prescribe an opiate antagonist may prescribe, including by a
53 standing prescription drug order issued in accordance with Subsection 26-55-105(2), or
54 dispense an opiate antagonist:

55 (a) (i) to an individual who is at increased risk of experiencing an opiate-related drug
56 overdose event;

57 (ii) for an individual described in Subsection (2)(a)(i), to a family member [of], friend
58 [of], or other person, including a person described in Subsections 26-55-107(1)(a)(i)(A)

59 through (1)(a)(i)(F), that is in a position to assist ~~[an]~~ the individual ~~[who is at increased risk of~~
60 ~~experiencing an opiate-related drug overdose event]~~; or

61 (iii) to an overdose outreach provider for:

62 (A) furnishing the opiate antagonist to an individual ~~[who is at increased risk of~~
63 ~~experiencing an opiate-related drug overdose event, or to a family member of, friend of, or~~
64 ~~other individual who is in a position to assist an individual who is at increased risk of~~
65 ~~experiencing an opiate-related drug overdose event]~~ described in Subsection (2)(a)(i) or (ii), as
66 provided in Section [26-55-106](#); or

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

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

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

71 (3) A health care provider who dispenses an opiate antagonist to an individual or an
72 overdose outreach provider under Subsection (2)(a) shall provide education to the individual or
73 overdose provider that includes written instruction on how to:

74 (a) recognize an opiate-related drug overdose event; and

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

76 (i) administer an opiate antagonist; and

77 (ii) ensure that an individual to whom an opiate antagonist has been administered
78 receives, as soon as possible, additional medical care and a medical evaluation.

Legislative Review Note
Office of Legislative Research and General Counsel